JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

1997 Organizational Session

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 1997,
and in the Two Hundred and Sixth
Year of the Commonwealth

Begun on Tuesday, the Seventh Day of January, 1997, and Adjourned
Sine Die on Friday, January 10, 1997

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Organizational Session of 1997.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Ms. Jean Wallace and Ms. Wilda Bond prepared the *House Journal* for the 1997 Organizational Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

DON CETRULO
Director

The Capitol
Frankfort, Kentucky
1997

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TUESDAY, JANUARY 7, 1997

FIRST LEGISLATIVE DAY

At an Organizational Session of the General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on Tuesday, January 7, 1997, the two hundredth and fifth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Jody Richards assumed the Chair and called the House to order.

Prayer by Reverend Tom Hall, Boone Plaza Church of Christ, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Clerk read the following certificate from the Secretary of State:

I, John Y. Brown III, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky. Given under my hand and seal of office, this 30th day of December, 1996.

John Y. Brown, III, Secretary of State

1st District Charles R. Geveden
P.O. Box 518
Wickliffe, KY 42087

2nd District Fred Nesler
P. O. Box 323
Mayfield, KY 42066

3rd District Frank Rasche
2929 Jefferson St.
Paducah, KY 42001

4th District Kathy Hogancamp
300 Acorn
Paducah, KY 42003

5th District Freed Curd
1607 Sycamore
Murray, KY 42071

6th District J. R. Gray
3188 Mayfield Hwy.
Benton, KY 42025

7th District John A. Arnold, Jr.
1301 North Lee
Sturgis, KY 42459

8th District John W. Adams
6255 Huffman Mill Rd.
Hopkinsville, KY 42240

9th District James Edmond Bruce
6750 Ft. Campbell Blvd.
Hopkinsville, KY 42266

10th District Eddie Ballard
P.O. Box 36
Madisonville, KY 42431

11th District Gross Clay Lindsay
P.O. Box 19
Henderson, KY 42420

12th District Jim Gooch, Jr.
P.O. Box 280
Providence, KY 42450

13th District Brian Crall
3336 Bryant Ct.
Owensboro, KY 42303

14th District Mark A. Treesh
5735 Grady Court
Philpot, KY 42366

15th District Brent Yonts
232 Norman Circle
Greenville, KY 42345

16th District Sheldon E. Baugh
252 West Valley
Russellville, KY 42276

17th District Willard "Woody" Allen
3750 Gilstrap Road
Morgantown, KY 42261

18th District Dwight D. Butler
P. O. Box 194
Harned, KY 40144

19th District Dottie J. Sims
459 Violet Ave.
Horse Cave, KY 42749

20th District Jody Richards
817 Culpeper St.
Bowling Green, KY 42103

21st District Roger Thomas
345 Elkins Road
Smiths Grove, KY 42171

22nd District Rob Wilkey
1418 Reeder School Rd.
Franklin, KY 42134

23rd District Stephen R. Nunn
121 E. Main
Glasgow, KY 42141

24th District William U. Scott
260 Frogg Lane
Raywick, KY 40060

25th District Jimmy Lee
901 Dogwood Drive
Elizabethtown, KY 42701

26th District John Michael Weaver
131 Mayer Lane
Elizabethtown, KY 42701

27th District Mark S. Brown
170 Washington St.
Brandenburg, KY 40108

28th District Bill Lile
11304 Frenchrone Drive
Louisville, KY 40272

29th District Kevin D. Bratcher
5205 Constance Drive
Louisville, KY 40272

30th District Tom Burch
4012 Lambert Ave.
Louisville, KY 40218

31st District Steven Riggs
8108 Thornwood Rd.
Louisville, KY 40220

32nd District Susan D. Johns
3120 Runnymeade Rd.
Louisville, KY 40222

33rd District Bob Heleringer
14209 Glendower Dr.
Louisville, KY 40245

34th District Mary Lou Marzian
2007 Tyler Lane
Louisville, KY 40205

35th District Jim Wayne
1280 Royal Avenue
Louisville, KY 40204

36th District Lonnie Napier
302 Danville Street
Lancaster, KY 40444

37th District Perry B. Clark
5716 New Cut Road
Louisville, KY 40214

38th District Denver Butler
6712 Morocco Dr.
Louisville, KY 40214

39th District Robert R. Damron
231 Fairway West
Nicholasville, KY 40356

40th District Dennis L. Horlander
Ste. 6, 1806 Farnsley Rd.
Louisville, KY 40216

41st District Tom Riner
1143 E. Broadway
Louisville, KY 40204

42nd District Eleanor Jordan
2704 Grand Ave. Unit #2
Louisville, KY 40211

43rd District E. Porter Hatcher, Jr.
901 S. Western Parkway
Louisville, KY 40211

44th District Joni L. Jenkins
2010 O'Brien Court
Shively, KY 40216

45th District Stan Cave
P.O. Box 2150
Lexington, KY 40515

46th District Larry Clark
5913 Whispering Hills Blvd.
Louisville, KY 40219

47th District Ron Crimm
P. O. Box 43244
Louisville, KY 40253

48th District Bob M. DeWeese
6206 Glen Hill Rd.
Louisville, KY 40222

49th District Allen Maricle
P.O. Box 295
Shepherdsville, KY 40165

50th District Jodie Haydon
106 Hillcrest
Bardstown, KY 40004

51st District Ricky L. Cox
603 Maple St.
Campbellsville, KY 42718

52nd District Vernon Miniard, Jr.
222 Michigan Ave.
Monticello, KY 42633

53rd District Billy D. Polston
P. O. Box 248
Tompkinsville, KY 442167

54th District Joe Clarke
120 N. Third St., Box 297
Danville, KY 40422

55th District Jack L. Coleman, Jr.
P.O. Box 600
Burgin, KY 40310

56th District Joe Barrows
152 Stout Avenue
Versailles, KY 40383

57th District H. "Gippy" Graham
P.O. Box 505
Frankfort, KY 40601

58th District Marshall Long
1204 Washington St.
Shelbyville, KY 40065

59th District Jim Zimmerman
3404 Sycamore Rd.
LaGrange, KY 40031

60th District Paul H. Marcotte
10674 Palestine Dr.
Union, KY 41091

61st District Royce W. Adams
580 Bannister Rd.
Dry Ridge, KY 41035

62nd District Charlie Hoffman
406 Bourbon St.
Georgetown, KY 40324

63rd District Richard L. Murgatroyd
2927 Prospect Pt. Dr.
Villa Hills, KY 41017

64th District Thomas Robert Kerr
5415 Old Taylor Mill
Taylor Mill, KY 41015

65th District Arnold R. Simpson
Shutt Mansion, 28 W. Fifth St.
Covington, KY 41011

66th District Charlie Walton
1663 Brierwood Ct.
Florence, KY 41042

67th District Jim Callahan
10 Colonel Pointe Dr.
Wilder, KY 41076

68th District Katie Kratz Stine
15 Cliffview
Ft. Thomas, KY 41075

69th District Jon David Reinhardt
637 W. Poplar Thicket
Alexandria, KY 41001

70th District Pete Worthington
1910 Old Main St., Box 214
Washington, KY 41096

71st District John Will Stacy
P. O. Box 135, Hutchinson Rd.
West Liberty, KY 41472

72nd District Jim Lovell
625 High
Paris, KY 40361

73rd District Drew Graham
10984 Iron Works Rd.
Winchester, KY 40391

74th District Adrian K. Arnold
3589 Aarons Run Road
Mt. Sterling, KY 40353

75th District Kathy W. Stein
364 Transylvania Park
Lexington, KY 40508

76th District Ruth Ann Palumbo
10 Deepwood Dr.
Lexington, KY 40505

77th District Jesse Crenshaw
121 Constitution St.
Lexington, KY 4057

78th District Thomas M. McKee
Route 1, Box 56
Cynthiana, KY 41031

79th District Lawrence W. Brandstetter
2363 Chauvin Drive
Lexington, KY 40502

80th District Danny Ford
P. O. Box 1245
Mt. Vernon, KY 40456

81st District Harry Moberly, Jr.
P. O. Box 721
Richmond, KY 40476

82nd District Charles L. Siler
3570 Tackett Creek Rd.
Williamsburg, KY 40769

83rd District Jeffrey H. Hoover
288 Lakeview Dr.
Jamestown, KY 42629

84th District Scott Alexander
Rt. 3, Box 607
Hazard, KY 41701

85th District Tommy Turner
65 Herrin Ct.
Somerset, KY 42501

86th District Jim Stewart
HC 76 Box 556
Flat Lick, KY 40935

87th District Michael Dean Bowling
P.O. Box 859
Middlesboro, KY 40965

88th District Thomas R. Pope
P. O. Box 391, 601 South Main
Harlan, KY 40831

89th District Marie L. Rader
P. O. Box 323, U. S. 421 So.
McKee, KY 40447

90th District Barbara White Colter
200 Langdon St.
Manchester, KY 40962

91st District Paul Mason
380 Hazard Road
Whitesburg, KY 41858

92nd District Donnie Newsome
HC 80 Box 1070
Dema, KY 41859

93rd District Chris Ratliff
P. O. Box 1306
Pikeville, KY 41502

94th District Herbie Deskins, Jr.
Box 1199
Pikeville, KY 41501

95th District Gregory D. Stumbo
P. O. Box 511, Fred's Fork
Prestonsburg, KY 41653

96th District Walter Gee
110 E. Main
Grayson, KY 41113

97th District Hubert Collins
72 Collins Lane
Whittensville, KY 41274

98th District Hoby Anderson
P.O. Box 902
Flatwoods, KY 41139

99th District Rocky Adkins
P.O. Box 688
Sandy Hook, KY 41171

100th District John F. Vincent
P.O. Box 2528
Ashland, KY 41101

Said Representatives were administered their oath of office by The Honorable Robert F. Stephens, Chief Justice, Kentucky Supreme Court.

The roll was called. All members were present.

Representative Stumbo moved that the Journal reflect that each member produced a Certificate of Election and that such certificates be confirmed. Agreed.

Representative Stumbo moved that floor privileges be granted to special guests. Agreed.

Representative Stumbo moved the nomination of the following House Constitutional Officers to serve until midnight, December 31, 1997:

Evelyn Marston: Chief Clerk
Margaret Watts: Enrolling Clerk
William E. Davis: Chief Doorkeeper
Aubrey Morris: Cloakroom Keeper
Jeremiah Davis: Page
Jacob Coley: Page
Julie Wheat: Assistant Clerk
Emmett A. Slattery: Sergeant at Arms
Frank Smith: Cloakroom Keeper
George Fritz: Janitor
Brian Fitzgerald: Page
Valerie Scheil: Page

Representative Stumbo moved that the nominations cease and the Constitutional Officers be elected by acclamation. Agreed. The oath of office was administered to the Constitutional Officers by Chief Justice Stephens.

Representative Stumbo moved that the rules be suspended to introduce and act upon **HR 1** and **HR 2**. Agreed.

Introduction of Resolutions

HR 1, by Representatives Stumbo, Richards, Callahan and L. Clark: A RESOLUTION adopting Rules to govern the 1997 Organizational Session of the House of Representatives.

HR 2, by Representatives Stumbo, Richards, Callahan and L. Clark: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 1997 Organizational Session with prayer.

Representative Stumbo moved the adoption of the following **HR 1**:

HR 1, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard H. Lewis.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, Richard H. Lewis.

WHEREAS, Richard H. Lewis, a native of Princeton, Kentucky, was born on December 3, 1937, and traversed these earthly bounds on March 11, 1997; and

WHEREAS, Richard H. Lewis was the adored son of Nola Hayes Lewis and Fred T. Lewis, who preceded him in death; and

WHEREAS, Richard H. Lewis was the devoted husband of Martha Cunningham Lewis; the loving father of three daughters, Beth Lewis Maze, Cynthia Jones, and Katherine Helms; and proud grandfather of four grandsons; and

WHEREAS, Richard H. Lewis served his country with distinction as a captain in the United States Army; and

WHEREAS, Richard H. Lewis earned his bachelor of science degree from Murray State University in 1960 where he was the recipient of the Golden Horseshoe Award; and he earned his J.D. degree from the University of Kentucky College of Law in 1965 where he was the recipient of the Roy M. Moreland Service Award; and

WHEREAS, Richard H. Lewis served his constituents with pride during two sets of terms in the Kentucky General Assembly from 1970-1975 and 1989-1994, representing the sixth legislative district of Caldwell, Lyon and Marshall counties; and

WHEREAS, to mention only a few of his many leadership accomplishments, Richard H. Lewis was Chief Executive Officer to Governor Julian Carroll from 1975-1976; he was a member of the Workers' Compensation Board from 1976-1978; he was chairman of the Kentucky Alcohol Beverage Board from 1980-1982; in 1980, Governor John Y. Brown, Jr., appointed him chairman of the Workers' Compensation Revision Task Force; in 1982, he was special commissioner to the Marshall Circuit Court; and in 1995, he was appointed by Governor Brereton Jones to the Murray State University Board of Regents; and

WHEREAS, Richard H. Lewis was named by the House of Representatives in 1970 as the Outstanding Freshman Representative; he was the recipient of the Lifetime Achievement Award from the Marshall County Chamber of Commerce; and he was named Marshall County Citizen of the Year in 1977; and

WHEREAS, in a life dedicated to public service, Richard H. Lewis set an unparalleled example of integrity and commitment ; and

WHEREAS, Richard H. Lewis was a devout member of the First Baptist Church of Benton, Kentucky, where he served as deacon and chairman of the Pulpit Committee; and

WHEREAS, all who knew and admired Richard H. Lewis will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its deepest sense of sorrow upon the passing of Richard H. Lewis, and extends to his family its most heartfelt sympathy and profound gratitude for his life and work.

Section 2. The passion, dedication, intelligence and social consciousness Richard H. Lewis brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Richard H. Lewis.

Section 4. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Martha Cunningham Lewis, 117 Greenwood Road, Benton, Kentucky 42025.

There being no objection **HR 1** was adopted.

Representative Stumbo moved the adoption of the following **HR 2**:

HR 2, A RESOLUTION in loving memory and honor of Virginia Bailey Page.

With deepest respect and admiration, we pay homage and tribute to Virginia Bailey Page.

WHEREAS, Virginia Bailey Page was born on November 3, 1933, a native of Logan County, Kentucky, and traversed these earthly bounds on January 17, 1997; and

WHEREAS, Virginia Bailey Page was the adored daughter of Burnice and Josephine Gordon Bailey; and

WHEREAS, Virginia Bailey Page was the devoted wife of Leslie Page, Jr.; and the loving mother of two sons, Leslie Page III and Benjamin Bailey Page; and the proud grandmother of one granddaughter, Elizabeth Page; and

WHEREAS, Virginia Bailey Page was an integral part of the Logan County community, and was the former editor and publisher of the News-Democrat and Leader; the former president of Al Smith Communications; and because of her expertise in agriculture, she was the first woman editor to be the recipient of the Kentucky Farm Bureau's annual communications award; and

WHEREAS, Virginia Bailey Page will be remembered as an outstanding journalist with a long-standing commitment to ethics, quality, and truth in journalism; and

WHEREAS, the passion, dedication, intelligence, and social consciousness Virginia Bailey Page brought to this Commonwealth will never be forgotten, for she was a woman of integrity and thoroughly dependable; the friend, faithful and true; the adviser, honest and fearless; and the adversary, just and courageous; and

WHEREAS, it is with fond recollection that we remember Virginia Bailey Page, not only for her many accomplishments in journalism and friendships she made and sustained through the years, but also her compassion for and understanding of the common man, which she demonstrated daily; and

WHEREAS, all who knew and admired Virginia Bailey Page will grieve over their loss, and she is mourned across the length and breadth of the Commonwealth;

WHEREAS,

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of bereavement and loss upon the passing of Virginia Bailey Page, and extends to her family its most heartfelt sympathy.

Section 2. When the Senate adjourns this day, it does so in loving memory and honor of Virginia Bailey Page.

Section 3. The Clerk of the Senate is hereby directed to transmit a copy of this Resolution to Mr. Leslie Page, Jr., 5568 Orndorff Mill Road, Russellville, Kentucky 42276.

There being no objection **HR 2** was adopted.

Motions, Petitions and Communications

Representative Zimmerman moved the adoption of the following **Legislative Citation No. 1**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds the efforts and offers its sincerest congratulations to the South Oldham High School 1996 Girls State Soccer Champions for their remarkable achievement of placing First in the State Soccer Tournament. This prestigious body commends the accomplishments of this highly talented and dedicated team and recognizes them for winning this highly competitive state championship and bringing great honor and distinction to South Oldham High School and the community. The House of Representatives joins with Representative Jim Zimmerman in honoring the South Oldham High School Lady Dragons on their outstanding season of achievement and wishes them every success as they further their academic and athletic careers.

Announcements

The following meetings were announced:

Majority Caucus fifteen minutes upon adjournment in Room 149.

Minority Caucus fifteen minutes upon adjournment in Room 129.

Prayer Breakfast, 7:30 a.m., January 9, 1997.

Western Kentucky Caucus, 2:30 p.m., January 8, 1997 in Room 111.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 8, 1997.

On the roll call the vote was **Yeas 96**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 4**--Bowling, Crall, Heleringer, Lile.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 8, 1997, 1997

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Joe Adams, Chaplain Ministries, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Maricle.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 7, 1997, be dispensed with and the same approved. Agreed.

The Chief Clerk assumed the chair.

Representative Deskins moved the nomination of Representative Jody Richards as Speaker of the House of Representatives.

Representative Deskins moved that the nominations cease and that Representative Jody Richards be elected Speaker of the House of Representatives by acclamation. Agreed.

Representative Jody Richards was elected Speaker of the House of Representatives by acclamation. A committee composed of Representatives R. Adams, Lee, Jordan, Moberly, and Stacy escorted the newly elected Speaker to the podium.

The oath of office was administered to Speaker Richards by the Honorable John Minton, Circuit Judge.

The Chief Clerk vacated the chair.

The Speaker resumed the Chair.

Representative Adkins moved the nomination of Representative Larry Clark as Speaker Pro Tempore of the House of Representatives. Motion was seconded by voice vote.

Representative Riner moved that he also be nominated for Speaker Pro Tempore of the House of Representatives. Motion was seconded by voice vote.

Representative Adkins moved that nominations cease. Agreed.

The Speaker instructed, and Representative Callahan clarified, for the members that a yes vote represented by a green light on the voting machine would be a vote for Representative Clark and a no vote represented by a red light would be a vote for Representative Riner.

Representative Riggs inquired if a Representative could nominate himself for a leadership position according to the Rules of the House.

The Speaker ruled that technically a Representative could not nominate himself for a position of leadership, but since the nomination was made and seconded, and a motion that nominations cease had been accepted, he would allow the election to proceed.

Representative Riggs asked that in the absence of a House Rule should the body not follow Mason's Manual. The Speaker replied that Mason's Manual is silent on the issue.

On the roll call to elect Representative L. Clark the Speaker Pro Tempore the vote was **Yeas 72**–J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Brown, Bruce, Burch, De. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marzian, Mason, McKee, Moberly, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 23**–Allen, Anderson, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, Cox, Crall, Ford, Gee, Hogancamp, Marcotte, Murgatroyd, Rader, Reinhardt, Riner, Stewart, Stine, Treesh, Turner, Vincent, Walton.

Representative Larry Clark was elected Speaker Pro Tempore of the House of Representatives. A committee composed of Representatives Marzian, Adkins, Crenshaw, and Lee escorted the newly elected Speaker Pro Tempore to the podium.

The oath of office was administered to Speaker Pro Tempore Clark by Chief Justice Robert F. Stephens.

Representative Callahan announced that the Democratic Party had caucused and elected the following Majority Party House leadership:

Floor Leader	Representative Gregory D. Stumbo
Whip	Representative Joe Barrows
Caucus Chairman	Representative Jim Callahan

Representative Cave announced that the Republican Party had caucused and elected the following Minority Party House leadership.

Floor Leader	Danny Ford
Whip	Willard "Woody" Allen
Caucus Chairman	Stan Cave

Report of Committee

The following members made Interim Committee Reports:

Representative Deskins - Committee on Agriculture and Natural Resources

Representative Moberly - Committee on Appropriations and Revenue

Representative Bruce - Committee on Banking and Insurance

Representative Kerr - Committee on Economic Development

Representative Curd - Committee on Education

Representative A. Arnold - Committee on Elections and Constitutional Amendments

Representative R. Adams - Committee on Energy

Representative Burch - Committee on Health and Welfare

Motions, Petitions and Communications

Representative Rasche moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Rasche moved that he be recorded as voting "yea" to elect the Speaker Pro Tempore Larry Clark . Agreed.

Announcements

The following meetings were announced:

Welfare Reform, Room 149, 1:00 p.m., January 9, 1997.

Subcommittee on Building Inspections, Room 129, 2:00 p.m., January 9, 1997.

Western Kentucky Caucus, Room 111, 2:30 p.m.

Ethics Training, 9:00 a.m., Room 149, January 9, 1997.

Adjournment

Representative Stumbo moved that the House adjourn until 11:00 a.m., January 9, 1997.

On the roll call the vote was **Yeas 88**--R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 3**--Lile, Nunn, Stewart.

The motion to adjourn was adopted.

THURSDAY, JANUARY 9, 1997

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bowling, Deskins, Heleringer, and Lindsay.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 8, 1997, be dispensed with and the same approved. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Representative Crimm moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Crimm moved the adoption of the following **Legislative Citation No. 3**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds the efforts and offers its sincerest congratulations to the Eastern High School Boys' Soccer Team for their remarkable achievement of placing First in the State Soccer Tournament. This prestigious body commends the accomplishments of this highly talented and dedicated team and recognizes them for winning the state championship and bringing great honor and distinction to Eastern High School and the Community. The House of Representatives joins with Representative Ron Crimm in honoring theme on their many achievements and wishes them every success as they further their academic and athletic careers.

Representative Ballard moved that the rules be suspended for the introduction of guests. Agreed.

Representative Graham moved that the rules be suspended to grant floor privileges to a special guest. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 4**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Woodrow W. Scott. The House of Representatives joins Representative Ruth Ann Palumbo in expressing its deepest sympathy to all who share in the loss on the passing of this loving husband of Jane Rogers Scott; devoted father of Philip Scott, David Scott and Barbara Johnson; cherished grandfather of Laurel Brooke Johnson; and brother of Wilhelmina Gross and Frances Sellers. This outstanding Kentucky citizen served with honor in the U. S. Marine Corps during World War II, was the founder and chairman of Scott-Gross Company, and was a valued member of the Altersgate United Methodist Church. His memory will continue to be an inspiration to all whose lives were touched by his presence and will continue to serve as a beacon for others to follow.

Representative Reinhardt moved the adoption of the following **Legislative Citation No. 2**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to The City of Erlanger. Whereas, the City of Erlanger completes the first one hundred years following its founding on the twenty-fifth of January in 1897, this honorable body proudly joins Representative Jon David Reinhardt in honoring this celebrant city and its citizens on this occasion of its Centennial Celebration. Blessed with a great location, a rich history of citizens with bedrock American values, exemplary work ethics, and a devoted sense of community, this city enters the twenty-first century with a sense of optimistic enthusiasm. The House of Representatives extends its best hopes and wishes for further blessings of abundance and well-being for this cherished community.

Announcements

The following meetings were announced:

Subcommittee on Building Inspections, Room 129, 2:00 p.m.

Jefferson County Delegation, Room 111, 1:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 10 a.m., January 10, 1997.

On the roll call the vote was **Yeas 88**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 4**--Lile, Nunn, Riggs, Stewart.

The motion to adjourn was adopted.

FRIDAY, JANUARY 10, 1997

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Brown, Deskins and Heleringer.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 9, 1997, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HCR 3, by Representative Stumbo: A CONCURRENT RESOLUTION adjourning the 1997 Organizational Session of the General Assembly sine die.

Report of Committees

Committee Chairmen are as follows: Representative Adkins - Committee on Labor and Industry; Representative Bowling - Committee on Judiciary; Representative D. Butler - Committee on Licensing and Occupations; Representative Riggs - Committee on Local Government; Representative Geveden - Committee on State Government; Representative Collins - Committee on Transportation; Dr. Paul Cook, Long Term Policy Center - Report on Long Term Policy Board

Motions, Petitions and Communications

Representative G. Graham moved the adoption of the following **Legislative Citation No. 5**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Mary Matney for her many acts of kindness and compassion to those in need. Her winning personality, upbeat attitude and unyielding belief in God Almighty surely makes her an Angel among women. The entire membership of the House of Representatives joins with Representative Gippy Graham in honoring this worthy recipient as an exemplary citizen of the Commonwealth of Kentucky and wishes her continued success in bringing happiness to all those whose fortune it has been to be blessed by her presence.

Representative Bowling moved the adoption of the following **Legislative Citation No. 6**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Reverend W. B. Bingham, II for the aberrant sharing of said recipient's life and vocation for the spiritual and personal development of Bingham Baptist Church. This honorable body does congratulate and acknowledge the magnanimous effort made by W. B. Bingham, II. For inasmuch as humanity, charity, faith and love are those hallowed characteristics that are necessary to pull together a church family; Bingham Baptist Church has been exceptionally blessed with the extraordinary talents and empathy of said recipient. The House of Representatives does recognize those reverential accomplishments and believes that the members of Bingham Baptist Church are a living monument to the goodness that abides there.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 8**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Raymond Sterling Lawrence. The House of Representatives joins Representative Ruth Ann Palumbo in expressing its deepest sympathy to the Lawrence Family and to all who share in the great loss on the passing of Raymond Sterling Lawrence, devoted husband of Margaret Blount Lawrence; and father of Linda L. Green, Cheryl Lawrence and Ray Lawrence, Jr. This outstanding Kentuckian was a veteran of World War II, serving in the Philippine Islands and Japan. He served the community as an automobile dealer for thirty-four years and was co-owner of Toyota of Lexington. His generous contributions as a productive citizen of this Commonwealth and nation will continue to serve as a beacon for others to follow, and he will be sadly missed by those whose lives he touched.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 7**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Frank R. "Dad" Adams, Sr. The House of Representatives joins Representative Ruth Ann Palumbo in expressing its deepest sympathy to all who share in the loss on the passing of this loving son of Callie Lathrem Adams and devoted father of Rick, Buffalo and Patricia. He had been vice president of International Chemical Laboratories and was, with his son, a former owner and operator of Buffalo & Dad's. This outstanding Kentucky citizen served with courage in the United States Navy during the Korean War. He continued to show his patriotism as a loyal member of the American Legion. His memory will continue to be an inspiration to all whose lives were touched by his presence and will continue to serve as a beacon for others to follow.

Representative Stumbo moved that the rules be suspended for the purpose of allowing the Clerk to report and read aloud the Committee on Committees Report. Agreed. The following House Committees were appointed:

COMMITTEE ON COMMITTEES: Jody Richards, Committee Chair; and Members Joe Barrows, Jim Callahan, Larry Clark, Danny Ford, and Greg Stumbo.

ENROLLMENT: Joni Jenkins, Committee Chair; and Members Joe Barrows, Jeffrey Hoover, and Greg Stumbo.

RULES: Jody Richards, Committee Chair; and Members Rocky Adkins, Woody Allen, Joe Barrows, Sheldon Baugh, Michael Bowling, Mark Brown, Jim Callahan, Stanton Cave, Larry Clark, Jack Coleman, Danny Ford, Charles Geveden, Porter Hatcher, Jr., Thomas Kerr, Jimmie Lee, Fred Nesler, Steven Riggs, John Will Stacy, Greg Stumbo, and James Zimmerman.

AGRICULTURE AND SMALL BUSINESS: Drew Graham, Committee Chair; Royce Adams, John Arnold, Jr., Dwight Butler, Walter Gee, and William Scott, Vice Chairs; and Members Adrian Arnold, Sheldon Baugh, James Bruce, Jack Coleman, Gippy Graham, Charlie Hoffman, Thomas McKee, Fred Nesler, Billy Polston, Jim Stewart, Roger Thomas, Tommy Turner, and Charles Walton.

APPROPRIATIONS AND REVENUE: Harry Moberly, Committee Chair; Jesse Crenshaw, Bob DeWeese, Jimmie Lee, and Marshall Long, Vice Chairs; and Members Royce Adams, Rocky Adkins, Joe Barrows, Mark Brown, Jim Callahan, Larry Clark, Barbara Colter, Danny Ford, Porter Hatcher, Jr., Bob Heleringer, Bill Lile, James Lovell, Mary Lou Marzian, Paul Mason, Richard Murgatroyd, Lonnie Napier, Donnie Newsome, Frank Rasche, Charles Siler, John Will Stacy, Mark Treesh, Jim Wayne, Pete Worthington, and James Zimmerman.

BANKING AND INSURANCE: James Bruce, Committee Chair; James Gooch, Billy Polston, and Roger Thomas, Vice Chairs; and Members John Adams, Sheldon Baugh, Stanton Cave, Brian Crall, Ron Crimm, Robert Damron, Herbert Deskins, Jr., Charles Geveden, Porter Hatcher, Jr., Marshall Long, Steven Riggs, Arnold Simpson, and Mark Treesh.

CITIES: Arnold Simpson, Committee Chair; Ron Crimm and Jim Wayne, Vice Chairs; and Members Lawrence Brandstetter, Tom Burch, Jim Callahan, Larry Clark, Vernon Miniard, Jon David Reinhardt, Tom Riner and Mark Treesh.

COUNTIES AND SPECIAL DISTRICTS: Steven Riggs, Committee Chair; Jeffrey Hoover and Mike Weaver, Vice Chairs; and Members Adrian Arnold, Sheldon Baugh, Ricky Cox, Walter Gee, Drew Graham, J.R. Gray, Thomas McKee, Stephen Nunn, Billy Polston, Marie Rader, Tom Riner, William Scott, Dottie Sims, Roger Thomas, and Brent Yonts.

ECONOMIC DEVELOPMENT: Ruth Ann Palumbo, Committee Chair; John Adams, Brian Crall, and Jodie Haydon, Vice Chairs; and Members Scott Alexander, Woody Allen, Michael Bowling, Lawrence Brandstetter, Dwight Butler, Jesse Crenshaw, Bob DeWeese, Kathy Hogancamp, Dennis Horlander, Susan Johns, Gross Lindsay, Marshall Long, Lonnie Napier, Fred Nesler, Chris Ratliff, William Scott, Dottie Sims, and John Vincent.

EDUCATION: Freed Curd, Committee Chair; Scott Alexander, Bill Lile, Tom Riner, and Dottie Sims, Vice Chairs; and Members Joe Barrows, Joe Clarke, Jack Coleman, Barbara Colter, Gippy Graham, Thomas Kerr, Mary Lou Marzian, Vernon Miniard, Harry Moberly, Richard Murgatroyd, Frank Rasche, Charles Siler, Kathy Stein, Charles Walton, and James Zimmerman.

ELECTIONS AND CONSTITUTIONAL AMENDMENTS: Adrian Arnold, Committee Chair; Perry Clark, Gross Lindsay, and Jim Stewart, Vice Chairs; and Members Woody Allen, Joe Clarke, Jack Coleman, Freed Curd, Danny Ford, Allen Maricle, and Mary Lou Marzian.

HEALTH AND WELFARE: Tom Burch, Committee Chair; Bob DeWeese, Susan Johns, Stephen Nunn, and Kathy Stein, Vice Chairs; and Members John Arnold, Jr., Perry Clark, Robert Damron, James Gooch, Bob Heleringer, Jeffrey Hoover, Eleanor Jordon, Mary Lou Marzian, Paul Mason, Vernon Miniard, Ruth Ann Palumbo, and Katie Stine.

JUDICIARY: Michael Bowling, Committee Chair; James Lovell, Katie Stine, and Rob Wilkey, Vice Chairs; and Members Kevin Bratcher, Stanton Cave, Perry Clark, Jesse Crenshaw, Herbie Deskins, Charles Geveden, Bob Heleringer, Kathy Hogancamp, Jeffrey Hoover, Susan Johns, Thomas Kerr, Gross Lindsay, Vernon Miniard, Frank Rasche, Arnold Simpson, and Kathy Stein.

LABOR AND INDUSTRY: J.R. Gray, Committee Chair; Hoby Anderson, Denver Butler, Dennis Horlander, and Brent Yonts, Vice Chairs; and Members Rocky Adkins, John Arnold, Jr., Mark Brown, Hubert Collins, Ricky Cox, Walter Gee, Charlie Hoffman, Joni Jenkins, Eleanor Jordan, Stephen Nunn, Charles Siler, and Tommy Turner.

LICENSING AND OCCUPATIONS: Denver Butler, Committee Chair; Robert Damron, Porter Hatcher, Jr., and Allen Maricle, Vice Chairs; and Members Kevin Bratcher, Tom Burch, Larry Clark, Jack Coleman, Ron Crimm, Dennis Horlander, Joni Jenkins, Eleanor Jordan, Bill Lile, James Lovell, Paul Marcotte, Ruth Ann Palumbo, and Jon David Reinhardt.

NATURAL RESOURCES AND ENVIRONMENT: Herbie Deskins, Committee Chair; Woody Allen, Mark Brown, and Thomas Pope, Vice Chairs; and Members Rocky Adkins, Scott Alexander, Hoby Anderson, Hubert Collins, Ricky Cox, James Gooch, Allen Maricle, Donnie Newsome, Jim Stewart, and Brent Yonts.

STATE GOVERNMENT: Charles Geveden, Committee Chair; Eddie Ballard, James Bruce, Paul Marcotte, and Lonnie Napier, Vice Chairs; and Members John Adams, Joe Barrows, Dwight Butler, Jim Callahan, Larry Clark, Joe Clarke, Brian Crall, Danny Ford, Jimmie Lee, Jon David Reinhardt, John Will Stacy, Jim Wayne, Mike Weaver, Rob Wilkey, Pete Worthington, and James Zimmerman.

TOURISM DEVELOPMENT AND ENERGY: Thomas Kerr, Committee Chair; Gippy Graham, Charlie Hoffman, Thomas McKee, Richard Murgatroyd, and John Vincent, Vice Chairs; and Members Royce Adams, Eddie Ballard, Michael Bowling, Lawrence Brandstetter, Kevin Bratcher, Drew Graham, J.R. Gray, Jodie Haydon, Thomas Pope, Marie Rader, Chris Ratliff, Steven Riggs, Katie Stine, and Charles Walton.

TRANSPORTATION: Hubert Collins, Committee Chair; Joni Jenkins, Fred Nesler, Chris Ratliff, and John Will Stacy, Vice Chairs; and Members Hoby Anderson, Eddie Ballard, Denver Butler, Barbara Colter, Freed Curd, Jodie Haydon, Kathy Hogancamp, Jimmie Lee, Paul Marcotte, Paul Mason, Donnie Newsome, Thomas Pope, Marie Rader, Tommy Turner, John Vincent, Mike Weaver, Rob Wilkey, and Pete Worthington.

Representative Ford inquired if the Committee on Committees actually met, was there a quorum and were minutes taken reflecting the actions of the Committee. The Speaker replied yes to all three inquiries. Representative Ford asked for a copy of the minutes. The Speaker stated that the minutes would be read by the Clerk.

Representative Ford stated that according to Rule 45 the minutes are to be filed with the Clerk and should be available to the members before they are read by the Clerk. He inquired if they had been filed.

The Speaker asked that the House stand at ease. The Speaker called the House to order.

The Speaker said there were two points he would like to make. First, the rules were suspended without objection to allow the Clerk to report the Committee on Committees Report and, secondly, according to Rule 45, the Chairman shall keep a record of the attendance of members at meetings. A careful record of the attendance at the meeting was kept.

Representative Ford said Rule 45 states that the record on attendance shall be filed with the Clerk.

Representative Lindsay noted that since the Rules were suspended to have this report read, the motion was in order.

The Speaker said that Rule 45 applies to standing committees only. The Speaker said the Report of the attendance is properly filed with the Clerk.

Representative Ford said that Rule 39 of the House Rules specifically states that "the number of members to be assigned to each committee is to be announced on the House floor prior to the Committee on Committees making its report." He asked if this was done.

The Speaker reiterated that the Rule refers to standing Committees and not the Committee on Committees. However, that report has also been filed with the Clerk.

Representative Ford asked if the minority party will have its equal representation on each Committee as is set out by Rules. The Speaker replied yes.

Representative Ford rose for a point of personal privilege and stated that the Rules had been violated and he was not notified of the Committee on Committees meeting.

The following Committee on Committees Report listing the members in attendance for January 8th and 9th was filed with the Clerk:

Representative Stumbo said the Committee on Committees meeting was held in compliance with the Rules of the House.

Representative Stine inquired of Representative Stumbo if the Committee on Committees Report must have a time on it.

Representative Stumbo replied that a time is not required. Representative Mason asked if the Speaker had Ruled on this issue. The Speaker replied yes. Representative Mason stated that the proper decorum then would be that the ruling stand or that the Chair's ruling be challenged.

Representative Cave stated that according to the Rules, the Committee on Committees Report must be prepared and signed by the Chairman. However, this Committee on Committees Report was prepared by Representative Stumbo. The Committee on Committees report was filed.

Representative Ford moved that the House recess for one hour for the purpose of making the Minority Report available to the members and asked for a roll call vote.

On the roll call for the House to recess the vote was **Yeas 36**--J. Adams, Allen, Anderson, Baugh, Brandstetter, Dw. Butler, Cave, Colter, Cox, Crall, Crimm, DeWeese, Ford, Gee, Hogancamp, Hoover, Lile, Marcotte, Maricle, Miniard, Murgatroyd, Napier, Nunn, Polston, Rader, Ratliff, Reinhardt, Riner, Siler, Simpson, Stine, Treesh, Turner, Vincent, Walton, Zimmerman. **Nays 53**--R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Burch, De. Butler, Callahan, L. Clark, P. Clark, Collins, Curd, Damron, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Lindsay, Long, Lovell, Marzian, Mason, McKee, Moberly, Nesler, Newsome, Palumbo, Pope, Rasche, Richards, Riggs, Scott, Sims, Stacy, Stein, Stumbo, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts.

The motion to recess for one hour was defeated.

Representative Worthington stated that according to Rule 4 no more than thirty minutes shall be allotted to Motions, Petitions and Communications and that thirty minutes had elapsed. Representative Worthington inquired if the House was now in Announcements. The Speaker replied that was correct.

Senate Message

Announcing passage of **SCR 6.** (Time: 12:20)

Representative Stumbo moved the adoption of the following **SCR 6**:

SCR 6, A CONCURRENT RESOLUTION adjourning the 1997 Organizational Session of the General Assembly sine die.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives adjourn on Friday, January 10, 1997, they do adjourn sine die.

There being no objection **SCR 6** was adopted.

Announcements

The following meetings were canceled for today:

Judiciary, Joint Organizational and House members in the House Chambers upon adjournment.

Transportation, January 10, 1997.

Representative Stumbo moved that reading of the Journal of January 10, 1997 be dispensed with and same approved. Agreed. Representative Stumbo moved that the reading of the Journal of the House of Representatives for the Organizational Session of 1997 be dispensed with and the same approved. Agreed.

Adjournment

Representative Stumbo moved that the House adjourn sine die until January 6, 1998, unless called into extraordinary session by the Governor.

On the roll call the vote was **Yeas 88**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 5**--Crall, Lile, Reinhardt, Stewart, Walton.

The motion to adjourn was adopted.

APPENDIX A

HISTORY OF HOUSE AND SENATE RESOLUTIONS

APPENDIX A - HISTORY OF HOUSE AND SENATE RESOLUTIONS
1997 Organizational Session

Numbers refer to page of House Journal~~. The text of a resolution is given on first reading or adoption.~~
Concurrent resolutions are designated HCR.

Bill No.	Intro duced	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HR 1	6							7				
HR 2	6							8				
HCR 3	17											

Numbers refer to page of House Journal. The text of a resolution is given on first reading or adoption.
Concurrent resolutions are designated SCR.

Bill No.	Senate Message	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Concur Activities	Enrolled	Other Action
				1st	2nd	3rd					
SCR 6	20							20			

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JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

1997 First Extraordinary Session

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 1997,
and in the Two Hundred and Fifth
Year of the Commonwealth

Begun on Monday, the Twelfth Day of May, 1997, and Adjourned
Sine Die on Friday, May 30, 1997

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the First Extraordinary Session of 1997.

The texts of bills appear on first reading and the text of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a membership list of elected representatives, tables of actions on bills and resolutions, roll call votes, and a subject index.

Ms. Jean Wallace and Ms. Wilda Bond prepared the *House Journal* for the 1997 First Extrarodinary Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Don Cetrulo
Director

The Capitol
Frankfort, Kentucky
1997

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JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY
FIRST EXTRAORDINARY SESSION
OF 1997

MONDAY, MAY 12, 1997

FIRST LEGISLATIVE DAY

At an Extraordinary Session of the General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on May 12, 1997, the two hundredth and fifth year of the Commonwealth, in compliance with a Proclamation issued by the Governor of the Commonwealth of Kentucky, the Honorable Paul E. Patton, the House of Representatives was called to order by the Honorable Jody Richards, Speaker of the House of Representatives.

Prayer by Dr. Steve Pattison, Capitol City Christian Church.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Clerk read the following Governor's Proclamation:

Proclamation by Paul E. Patton, Governor of the Commonwealth of Kentucky:

To All To Whom These Presents Shall Come: Pursuant to the power vested in my by Section 80 of the Constitution of the Commonwealth of Kentucky, Paul E. Patton, Governor of the Commonwealth of Kentucky, do issue this proclamation, convening the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky, at 12 noon, Monday, May 12, 1997, for the sole purpose of considering the following subjects:

(1) Improving the Commonwealth's entire system of post secondary and technical education, but excluding appropriations therefore, by amending or creating new sections of those Chapters of the Kentucky Revised Statutes pertaining to the Commonwealth's post secondary and technical education system.

(2) Repealing various provisions of the Kentucky Revised Statutes as necessary to implement the provisions of this proclamation.

(3) Declaring an emergency thereby making any legislation enacted pursuant to this proclamation effective upon the signature of the Governor.

DONE AT THE CAPITOL, in the City of Frankfort, this 12th day of May in the year of our Lord One Thousand Nine Hundred and Ninety-Seven and in the year of the Commonwealth the Two Hundred and Fifth.

Paul E. Patton, Governor

John Y. Brown III, Secretary of State

Speaker Richards stated the Journal will show the same membership as that of the 1997 Organizational Session.

The roll was called. All members present except Representative Deskins.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Introduction of Bills and Resolutions

HB 1, by Representatives Callahan, Richards, L. Clark, Murgatroyd, Wilkey, Haydon, Weaver, Sims, Johns, Wayne, Horlander, Marzian, P. Clark, Denver Butler, Jordan, Nunn, Siler, Moberly, Curd, Zimmerman, Bowling, J. Clarke, Hatcher: AN ACT relating to post secondary education and declaring an emergency.

HB 2, by Representatives Stumbo, Richards, Callahan, L. Clark, Barrows: AN ACT making an appropriation to the Legislative Research Commission for expenses incurred in connection with the First Extraordinary Session of 1997 of the General Assembly, and declaring an emergency.

HR 1, by Representatives Stumbo, Richards, Callahan, L. Clark, Barrows: A RESOLUTION adopting House of Representatives Rules of Procedure for the 1997 Extraordinary Session of the General Assembly.

HR 2, by Representatives Stumbo, Richards, Callahan, L. Clark, Barrows: A RESOLUTION extending an invitation to the pastors of Frankfort Churches to open sessions of the 1997 Extraordinary Session with prayer.

HR 3, by Representatives Stumbo, Richards, Callahan, L. Clark, Barrows: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Representative Stumbo moved that the rules be suspended to act upon Resolutions. Agreed.

Representative Stumbo moved the adoption of the following **HR 1**:

HR 1, A RESOLUTION adopting Rules to govern the 1997 Organizational Session of the Senate.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The following Rules are adopted to govern the 1997 Organizational Session of the Senate:

Rule 1. **Hours of Meeting.** The Senate shall meet at the call of the members. The official time shall be governed by the clock over the main entrance to the Senate Chamber.

Rule 2. **Quorum.** A majority of the Senators elected to the Senate shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the Senate, four Senators may adjourn or recess from day to day or from time to time and eight Senators may order a call of the Senate and send for absent Senators.

Rule 3. **Call of the Senate.** Upon a call of the Senate, the Clerk shall call the roll, then call the absentees again. The doors of the Senate Chamber shall then be closed and the absentees not excused by the Senate may be sent for and arrested by the Sergeant at Arms.

The Senate shall determine upon what conditions they shall be discharged from arrest. Senators who voluntarily appear shall be immediately admitted to the floor of the Senate and their names entered upon the Journal as present, unless the Senate otherwise directs.

ORDER OF BUSINESS

Rule 4. **Order of Business.** The order of business shall be as follows:

1. Invocation.
2. Pledge of Allegiance.
3. Roll Call.
4. Reading and Approval of the Journal.
5. Introduction and Reading of New Bills, Resolutions, and Floor Amendments.
6. Second Reading of Bills.
7. Report of Committees.
8. First Reading of Bills.
9. Motions, Petitions, Communications, and Announcements.
10. Orders of the Day.
11. Report of Reference of Bills to Committee.
12. Committee on Rules Report.
13. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions, Communications and Announcements.

Rule 5. **Unfinished Business.** Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. **Reading of Motions.** When a motion has been made and seconded, it shall be stated by the President, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. **Withdrawal of Motions.** Every oral motion after it has been stated by the President, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the Senate and shall not be withdrawn without consent of the Senate. Every written motion, report or measure may be committed or recommitted at the pleasure of the Senate.

Rule 8. **Order of Questions.** All questions, whether in Committee of the Whole or in the Senate, when not a privileged question, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the Senate when there is no quorum present.
2. To fix the time to which the Senate shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a Senator is speaking while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate, to prevent the offering of additional amendments and to bring the Senate to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the Senators elected. On the call of the roll, no Senator shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits of Debate. A motion to extend a time limit for debate on a measure beyond that permitted under Rule 12 shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the President evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a Senator who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the Senate is in session next after the day the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any Senator. A motion to reconsider a vote on a bill or resolution not in the possession of the Senate shall not be in order.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend, and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measures. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any Senator, but it shall not again be read on the same day unless so ordered by the Senate.

Rule 20. **Nominations.** In all elections a previous nomination shall be made.

MEMBERS

Rule 21. **Attendance of Members.** No Senator shall absent himself from a session of the Senate without leave from the Senate.

Rule 22. **Decorum of Members.** No Senator shall designate another Senator by name.

Rule 23. **Call to Order.** If any Senator, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the Senate. After hearing a short explanation from the Senator called to order, or upon the withdrawal of the objectionable language, the President may permit the Senator to proceed, or may require his silence until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the Senate. A Senator offending the Senate shall be liable to censure.

Rule 24. **Debate.** No Senator may speak more than once to the same subject until all Senators desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No Senator shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the President.

Rule 25. **Members Shall Vote at Seats.** A Senator shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. **Duties of President.** The President shall take the chair every day precisely at the hour fixed for the meeting of the Senate and, on the meeting of the Senate and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the Senate.

The President shall preserve decorum and order and, in the event of any disorder in the gallery or in the Senate Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the Senate when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the Senators.

The President may designate any Senator to preside in the absence of both the President and President Pro Tem and to perform all duties of the President, including duties as a member of the Committee on Committees. Such designation by the President may be made from time to time or for such duration of time as the President may designate.

Rule 27. **Appeal from Decision of Chair.** The President while presiding may speak to points of order in preference to Senators. He shall decide points of order and manner of procedure. If two or more Senators arise from their respective seats and address the chair, the President shall determine who was first and recognize him.

Any decision made by the President shall be subject to appeal to the Senate. During the pendency of any appeal to the Senate from a decision of the chair, the President shall vacate the chair and call the President Pro Tem to preside. When the President Pro Tem is presiding on an appeal to the Senate from a decision of the President, no motion or business shall be in order except the motion on appeal from the decision of the President, and that motion shall not be debatable.

Rule 28. **President Pro Tempore.** The Senate shall elect a President Pro Tem, who shall perform the duties of the President when the President is absent from the Senate, or when empowered by the President to perform the duties of the chair.

Rule 29. **Duties of Clerk.** The Clerk shall have charge and supervision of all the clerical business of the Senate. The Clerk shall have charge of the Clerk's section of the Senate Chamber and shall see that no one is permitted therein except the Clerk and those assisting the Clerk.

The Clerk shall read to the Senate papers ordered to be read; call the roll and note and report the absentees when a call of the Senate is ordered; call the roll and note the answers of members when a question is taken by yeas and nays; assist the President in taking the count when any vote of the Senate is taken; notify committees of their appointment and business referred to them; attest all writs, warrants and subpoenas issued by order of the Senate; keep a calendar indicating bills entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the House, unless otherwise ordered.

Rule 30. **Journal of Proceedings.** The Clerk shall cause to be kept the Journal of the proceedings of the Senate. The Clerk shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the Senate. The Senate may correct errors in the Journal the day the Journal containing errors is presented to the Senate. No record which is in the hands of the Clerk and is required by law to be entered upon the Journal of the Senate shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved. Half an hour before the time fixed for the meeting of the Senate each day, the Clerk or an assistant shall be present at the Clerk's desk with the minutes of the preceding session for the inspection of any member of the Senate.

The Clerk shall transmit the Journal for each day as soon as it has been approved by the Senate to the Legislative

Research Commission, which shall deliver it to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. **Custody of Papers.** The Clerk shall have custody of all records, papers and bills of the Senate and shall not allow them to be taken out of the Clerk's possession without the leave of the Senate, unless to be delivered to the chairman of a committee to which they have been referred or to the Legislative Research Commission, as specified in these rules, and then the Clerk shall take a proper receipt therefor. The Clerk shall endorse on bills and papers brief notes of proceedings had thereon by the Senate and preserve the same in convenient files for reference.

Rule 32. **Accounts of Expenditures.** The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. **Printing of Senate Papers.** The Legislative Research Commission shall have supervision and charge of all printing done for the Senate as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the President, to be submitted to the Senate, every failure of the printer to execute work correctly and promptly.

Rule 34. **Duties of the Sergeant-at-Arms.** It shall be the duty of the Sergeant-at-Arms and Doorkeeper to exclude or remove all persons not entitled to the floor of the Senate. One hour before convening of the Senate each day the Sergeant-at-Arms shall announce in a loud distinct voice: "All persons not entitled to the floor of the Senate under the rules thereof will now vacate the Senate Chamber." The Sergeant-at-Arms shall then compel all persons who are not entitled to remain therein to leave the Senate Chamber and shall prohibit their entry until thirty minutes after the Senate has adjourned.

The Sergeant-at-Arms of the Senate, before any joint session is to be held, shall request the Sergeant-at-Arms of the House to arrange for the seating of the members of the Senate in a body. The Senators will assemble in the Senate Chamber five minutes before the meeting of any joint session and go to the House in a body.

Rule 35. **Appointment and Conduct of Constitutional Employees.** The constitutional employees of the Senate shall be appointed by election during the organizational and regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the Senate shall, one hour before the meeting of the Senate each day, report to the Clerk, who shall report to the Committee on Committees whether all of said employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the Senate any dereliction of duty.

Rule 36. **Other Employees.** All other professional, clerical and other employees required by the Senate or any of its committees shall, as authorized by the Committee on Committees, be provided by the Legislative Research Commission. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the Senate shall receive any fee, tip or compensation from any Senator and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. **Committee on Committees.** There shall be a Committee on Committees composed of the President, the President Pro Tem, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Whip, the Minority Floor Leader, the Minority Caucus Chairman, and the Minority Whip of the Senate.

The majority of said committee shall have full power to act on all matters referred to said committee either by these rules or by action of the Senate. A meeting of the Committee on Committees may be called by the President, the Majority Floor Leader, or a majority of the committee members.

The President shall be Chairman of the Committee on Committees, and in his absence the Majority Floor Leader shall serve as Chairman.

All bills and resolutions bearing the force and effect of law shall, upon their introduction, be automatically referred to the Committee on Committees which shall refer same to the proper committee not later than the second day in which the Senate is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employees of the Senate whether elected by the Senate or appointed by the Committee on Committees or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the Senate and the members thereof. The Committee on Committees is empowered to discharge any or all of said employees and officers except the constitutional officers of the Senate. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon.

Rule 38. **Standing Committees.** The following shall be the standing committees of the Senate:

1. Agriculture and Natural Resources
2. Appropriations and Revenue
3. Banking and Insurance
4. Education

5. Economic Development and Labor
6. Health and Welfare
7. Judiciary
8. Licensing and Occupations
9. State and Local Government
10. Transportation

The standing committees of the Senate shall operate for the duration of a regular session and throughout any special session. On sine die adjournment of the General Assembly, the standing committees of the Senate shall be constituted subcommittees of the Legislative Research Commission pursuant to KRS Chapter 7.

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the Senate. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees, the number of members on the committee to be appointed shall be established by the Committee on Committees. At the same time, the Committee on Committees shall establish the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party. Members of the majority party and minority party shall be appointed on nomination of the members of said party on the Committee on Committees.

The Committee on Committees shall not appoint more than twelve members to any one standing committee. Every member of the Senate shall be appointed to at least one standing committee and no members shall be appointed to more than three standing committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Natural Resources:** matters pertaining to crop, livestock, poultry and their marketing, disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage, and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; water pollution; noise pollution; air pollution; protection of the environment; management of waste; the Natural Resources and Environmental Protection Cabinet; the State Fair; county fairs; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; the Public Service Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans' bonuses; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Education:** matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

5. **Economic Development and Labor:** matters pertaining to commerce, industry, economic and industrial

development, the work-force and the workplace, and tourism not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

6. **Health and Welfare:** matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; mothers' aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; water pollution; air pollution; physicians, osteopaths and podiatrists; chiropractors; dentist and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

7. **Judiciary:** matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, circuit courts and district courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries; attorneys; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional penitentiaries; civil rights; and juvenile matters.

8. **Licensing and Occupations:** matters pertaining to professional licensing not assigned specifically to another committee; racing; prizefighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

9. **State and Local Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; Secretary of State; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the libraries generally, including library districts, city and county libraries, and county law libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks; the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots; the officers, organization, government, and financing of county and city governments; urban-county governments generally; county and city imposed taxes and licenses; special purpose assessment and taxing districts within a city; financing of local government improvements; issuance of bonds for county, city, and special district projects; local government indebtedness generally; compensation of county and city officers and employees; the imposition of duties and costs on local governments; interlocal government cooperation and consolidation of services; local government employees civil service and retirement; the powers, duties, and composition of fiscal courts and municipal legislative bodies; the offices of county judge/executive, magistrate, county attorney, sheriff, constable, jailer, coroner, surveyor, and county clerk; forms of local government; incorporation and classification of cities; housing projects; urban renewal and redevelopment; planning and zoning; annexation of territory; public works; parks and playgrounds; police and fire departments and their retirement systems; county roads; city streets and sidewalks; local government utilities and waterworks; acquisition of waterworks and water districts by local governments; sewers; metropolitan sewer and sanitation districts; public road districts; water districts; fire protection districts; drainage districts and local flood control and water usage; local air pollution control districts; urban service districts; and special districts not assigned to another committee.

10. **Transportation:** matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and

operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; bill boards; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. **Rules Committee.** There shall be a Rules Committee composed of the same membership as the Committee on Committees, plus one member-at-large from the majority party designated by the majority caucus. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to the committee which has reported out such bill or resolution, or to the Committee on Appropriations and Revenue in those instances wherein the fiscal implications of the measure may require additional consideration. No bill or resolution may be considered by the Rules Committee except on call of the Chairman or by a vote of a majority of the members of the committee. No bill or resolution shall be referred back by the Rules Committee on more than one occasion. No bill or resolution may be retained by the Rules Committee for more than five successive legislative days in which the Senate is in session, except those referred to the Rules Committee with associated amendments, reports, or messages pursuant to Senate Rule 59. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee, unless otherwise ordered posted for the next succeeding legislative day by a majority of the Senators voting. The Rules Committee shall arrange the Orders of the Day so that all measures for the consideration of the Senate shall appear thereon, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the Senate. The Rules Committee shall post a notice in a regular place in the Senate Chamber listing the bills to be considered in the Orders of the Day. Should the Senate not complete a day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Majority Floor Leader of the Senate shall act as Chairman of the Rules Committee. The Majority Floor Leader of the Senate shall act for the Rules Committee in calling any bills or resolutions from the Orders of the Day and shall be recognized by the President for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The President shall act as chairman in the absence of the Majority Floor Leader.

Meetings of the Rules Committee shall be open to members of the Senate, members of the Capital Press Club and such others as the committee may invite; except no cameras or other recording devices shall be used while the committee is in session. No one other than a member of the Rules Committee shall address the committee except upon invitation of the Chairman or a majority of the members of the committee.

Rule 42. **Standing Subcommittees.** The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of three members each:

1. Subcommittee on Economic Development and Energy, Natural Resources, and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance, and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

Of the three members of each such subcommittee, one shall be a member of the Committee on Appropriations and Revenue designated by the chairman of such committee and shall serve as chairman of the standing subcommittee. The other subcommittee members shall be appointed by the Committee on Committees from the membership of the remaining standing committees of the Senate and shall be deemed liaisons of the standing committees from which they were appointed.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

Rule 43. **Enrollment Committee.** The Committee on Committees shall appoint an Enrollment Committee of not more than five members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this Senate.

Rule 44. **Committee on Conference; Committee on Free Conference.** When a Senate bill has been amended in the House and the Senate refuses to concur in said amendment, or when a House bill has been amended in the Senate and the House refuses to concur in said amendment, and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference, of three members, to meet a like Committee from the House. The Committee on Conference shall confer with the House Committee and report back to the Senate within a reasonable time, in the same manner as reports are made for Senate bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy and shall be voted upon, and, if adopted, the bill shall immediately be put upon its final passage. Second and subsequent such committees may be appointed.

Should a Committee on Conference report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a Committee on Free Conference, consisting of three or more members. The Senate Committee on Free

Conference shall meet with a like committee from the House, and may propose any amendment to the bill at issue, except the report of a Committee on Free Conference shall not be in order if it proposes to make a part of the measure at issue the substantial insertion of the text of any other bill which has not passed both the House and the Senate, or if it proposes the enactment of subject matter not previously considered at the session. The President, when the question is raised, shall rule as to the admissibility of the report of the Committee on Free Conference, subject to appeal to the Senate. The free conference report shall be voted upon; if adopted, the bill shall immediately be put upon its final passage, provided, however, that if a motion to reconsider coupled with a motion to lay on the table has been adopted by the Senate, the vote of a constitutional majority of the Senate shall be required to adopt the report of the free conference. Second and subsequent such committees may be appointed.

Except for report of disagreement, the consideration of the report of a Committee on Conference or a Committee on Free Conference, and final passage of the bill to which such report is attached shall not be in order on the same legislative day as such bill and report are received by the Senate.

Rule 44A. Majority and Minority Caucuses. The Majority Caucus of the Senate shall consist of all Senate members of majority party affiliation. The Minority Caucus of the Senate shall consist of all Senate members of minority party affiliation. The majority and minority caucuses of the Senate shall be committees, other than standing committees, of the Senate and General Assembly.

Rule 44B. Open Meetings of Committees. The meetings of the committees of the Senate[~~, other than the majority and minority caucuses,~~] shall be open to the public.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment, and a Committee on Conference between the House and Senate shall sit while the Senate is in session, unless by consent of the Senate. The Committee on Committees and Committee on Enrollment may report at any time except during a roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the meetings of each committee, such schedule to be posted in the Senate Chamber and published in the Legislative Record. A committee shall meet at the scheduled time and place, so long as business is pending before the committee.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

Rule 46. Committee Reports. Every Committee should report the disposition of every bill and resolution referred to it as promptly as possible. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the Committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or,

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or,

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or,

"With the expression of opinion that the same should not pass," or,

"Without expression of opinion."

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill favorably. The chairman shall keep a record of the vote of each member on the disposition of each bill which shall be filed with the Clerk. The chairman may sign reports on behalf of a majority of the committee members. His signature shall attest to the action of a majority, but shall not be construed as his personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report; it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read.

Rule 48. Failure to Report. Whenever a committee fails or refuses to report a bill submitted to it, any member may, upon filing with the Clerk a written petition to determine whether the committee has held the bill for an unreasonable time, call the petition for consideration on the next succeeding legislative day after its filing. If a majority of the members elected to the Senate concur that the bill has been held an unreasonable time by voting to approve the petition, the bill shall be considered as though it had been regularly reported and shall be given its first reading and thereafter treated as any other bill which had been reported from a committee.

Rule 49. Procedure in Committee. The rules of procedure in the Senate shall be observed in committee insofar as the same are applicable.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and five distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of the original bill, provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the Senate until engrossed and sent to the House. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used for committees. Three copies shall be for the use of the press and shall be given to a person designated by the Press Club. One copy shall be provided to the Legislative Research Commission. All copies shall be backed with a protective cover as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the Senator introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through such material with slash marks so as not to render such words illegible. Any section of a bill seeking to repeal a section or sections of the Kentucky Revised Statutes shall set forth in addition to the statute section number the statute section headnote as such appears in the Kentucky Revised Statutes. The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the computerized bill preparation system of the Legislative Research Commission.

Rule 51. Introduction of Bills. Bills and resolutions may be introduced from the floor in the regular Order of Business or by filing them with the Clerk at any time that the Clerk's office is open and before the Senate adjourns for the day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. No bill or resolution having the force of law, shall be introduced during the last twenty legislative days of the session. The two legislative days immediately prior to the last two legislative days shall be reserved by the Senate exclusively for the business of concurring in amended Senate bills. The last two legislative days shall be reserved by the Senate exclusively for the purpose of considering vetoed bills.

Rule 52. Fiscal Statement. A sponsor of a bill which, if enacted, would affect the revenues or expenditures of the Commonwealth generally, may at any time by request cause the staff of the Legislative Research Commission to analyze and prepare a fiscal statement for the measure. The staff of the Legislative Research Commission shall analyze and prepare a fiscal statement for any bill which, if enacted, would fiscally affect local governments through the imposition of a local mandate; or fiscally affect state or local corrections services in a significant manner, including any bill which would modify or create a criminal penalty or otherwise affect the population of a correctional system or facility. The chairman or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to final committee action. No measure for which the preparation of a fiscal statement has been requested or is required pursuant to this rule shall be placed in the Orders of the Day until the fiscal statement is attached. Members may require, by majority vote, that a fiscal statement be prepared for any bill on the Orders of the Day not otherwise requiring preparation of a fiscal statement. In such instance, the fiscal statement shall be attached to the bill prior to final consideration on the floor of the Senate. Any member proposing an amendment from the floor which relates to fiscal matters herein described shall cause a fiscal statement to be prepared and attached to the amendment. Until the time the fiscal statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. The requirement for a fiscal statement may be waived by a vote of a majority of the members elected to the Senate.

Rule 53. Rejected Administrative Regulations. Rejection of administrative regulations laid before the General Assembly according to law shall take the form of a joint resolution.

Rule 54. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the Senate is in session after the date of introduction. When a Senate bill has been amended in the House and has been returned to the Senate for concurrence in the amendment, it may be referred to a standing committee by the Rules Committee. Bills originating in and passed by the House when reported to the Senate shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 55. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill, to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary, the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the Senate and of each bill or resolution carrying the force and effect of law acted on by the House and reported to the Senate. Bills shall be printed in the order in which they are introduced and distributed to members immediately upon being printed.

Rule 56. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass or without expression of opinion, a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the Senate shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Clerk upon the Calendar to be kept by her, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third reading at length may be dispensed with by a majority of all the members elected to the Senate and the bill read by its title.

Rule 57. **Calendar; Consent Calendar.** (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Clerk shall keep a Regular Calendar and a Consent Calendar for each legislative day, showing the bills receiving their second reading.

(b) The Clerk shall also keep a Regular Orders and a Consent Orders, showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may, at the time of favorably reporting any Senate or House Bill, recommend that it be placed in the Consent Calendar, provided:

(a) The primary sponsor has so requested, when it is a Senate Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any Senate or House Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar, showing the request of the sponsor of any Senate Bill, and the unanimous recommendation of the members present, signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The President shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Clerk shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Clerk his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the President shall instruct the Clerk to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders, as provided in these rules.

Rule 58. **Orders of the Day.** When a bill has had its second reading it shall be referred to the Rules Committee to be placed in the Orders of the Day, or be recommitted, and when next reached in the Senate it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the President shall so announce to the Senate.

Except as provided in Rule 41, a bill may be recommitted or amended at any time before its passage. Bills shall be placed in the Orders of the Day and shall be taken therefrom in accordance with Rule 41. When a Senate bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical House bill which is in the Calendar of the Senate.

No bill shall be taken from the Orders of the Day unless it shall have been previously distributed to the members.

Rule 59. **Concurrence in Amendments and Reports of Conference Committees; Receding from Amendments; Final Passage.** When a Senate bill and message have been received from the House requesting concurrence in an amendment or amendments adopted thereby, or when a report of a conference committee or a veto message is received, the bill and message or report so received shall be referred to the Rules Committee for posting to Orders of the Day. In such instances the Clerk shall distribute appropriate copies of the bill and its proposed amendment, report, or message to each member of such committee. The Rules Committee may post such bills to Orders of the Day for consideration of the amendment, report, or message, and final passage, giving precedence to such over all other matters posted.

When bills with amendments for concurrence or with conference committee reports are reached in Orders of the Day the President shall first put the question of concurrence in the amendment or report, whereupon if such is favorable the bill shall be put immediately upon its final passage.

Rule 60. Amendments to Bills. All amendments offered by a committee or by an individual Senator shall be typewritten on forms with a proper heading, furnished by the Legislative Research Commission. Each amendment shall bear in addition to the signature of the Senators offering the same an indication of review by the staff of the Legislative Research Commission. All amendments shall refer to the proper page and line of the printed bill. Two original copies of each amendment shall be filed. The Clerk shall not accept for filing any amendment not conforming with this Rule as to form. The Clerk shall forward two copies to the Legislative Research Commission. No amendment shall be in order that is not germane to the matter under consideration and that has not been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution. The President, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the Senate.

No amendment to a bill under consideration containing the substantial text of the language of any other bill introduced during the session shall be in order. The staff of the Legislative Research Commission shall cause such amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of any other bill introduced during the session the President shall rule thereon, subject to appeal to the Senate.

A committee substitute, upon its adoption, shall be considered as the original bill for purposes relating to the permissible degree of further amendment of the bill. Any proposal to amend the title of a bill shall be by separate title amendment. The question of adoption of an offered title amendment for a bill shall be presented to the body immediately after adoption of the bill.

Rule 61. Engrossment of Bills. Every Senate bill and joint resolution, together with the amendments thereto, which has been passed by the Senate and not subject to further amendment or motion, shall be engrossed by the Clerk. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the House in open session by the Clerk or someone designated by the Clerk, and the House concurrence asked therein. A like procedure shall be observed toward House bills.

When engrossing a bill, the Clerk may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 62. Enrollment of Bills. All Senate bills and resolutions which have passed both the Senate and the House shall be delivered by the Senate Clerk to the Enrolling Clerk, taking a receipt therefor. The Senate Clerk shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate, in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the Senate is amended by the House and the Senate concurs in the amendments proposed and adopted by the House, the Clerk of the Senate shall engross said amendments in the original copy of the bill by typing or may generate a replacement original copy of the Senate bill through computerized process. The Clerk shall deliver a printed copy of the original bill or replacement therefor, if applicable, to the Legislative Research Commission, taking a receipt therefor. The Commission then shall prepare the amended enrolled copy, and return such to the Enrolling Clerk of the Senate.

The original bill or resolution or replacement therefor, if applicable, and the enrolled copy prepared by the Legislative Research Commission shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each are in the exact form as finally passed prior to such delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrollment copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the Senate. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 63. Signing of Bills. The Enrolling Clerk of the Senate shall deliver the original and enrolled copies of Senate bills and resolutions signed by the President or the President Pro Tem to the Chairman of the Enrollment Committee of the House for presentation to the Speaker of the House for his signature. When signed by the Speaker of the House, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the Senate, who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 64. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. Simple resolutions and concurrent resolutions shall be considered referred to the Committee on Committees upon introduction; except those to name a committee to wait upon the Governor, to invite pastors to open sessions of the Senate with prayer, to adjourn the Senate, or those which are sponsored by a constitutional majority of members, which may be adopted upon introduction. The Committee on Committees may refer simple and concurrent resolutions to a standing committee or to the Rules Committee. All resolutions recommending a study shall include an approximate cost of the proposed study and, upon adoption, shall be referred by the Legislative Research Commission to the interim committee having jurisdiction of the same. All resolutions recommending or requiring a study, or which recommend or create a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 65. **Legislative Citations.** For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the Senate or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions, Communications and Announcements," and without objection shall be adopted upon motion of the sponsor. Citations shall be offered for consideration through presentation to the Clerk.

VOTING

Rule 66. **Roll Call.** Any member, with a second, may demand a roll call on any matter pending before the Senate. The names of Senators shall be arranged alphabetically when taking a yea and nay vote.

Rule 67. **Pairing.** All pairs announced in the Senate shall be entered on the Journal.

Rule 68. **Division of the Senate.** If the President be in doubt as to the result of a viva voce, or a division demanded, the Senate shall divide. Those voting in the affirmative shall first rise and be counted, and the President shall announce the number of those so voting. Those voting in the negative shall then rise and be counted and the President shall announce the number so voting. He may appoint tellers to count those voting.

Rule 69. **Adjournment Extended During Roll Call.** When the roll is being called in taking a yea and nay vote, and the hour of adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 70. **Persons Entitled to the Floor.** When the Senate is in session, including such time that the Senate has resolved itself into a committee of the whole, and one hour before and one-half hour after no person shall be permitted upon the floor, except the present members of the General Assembly and all officers and employees of the Senate and members of the immediate family of Senators. Bona fide news media correspondents shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the Senate and assigned by the Committee on Committees to a press section specifically set aside for them. The clerk of the Senate shall provide proper identification for families of Senators. The doorkeepers shall not admit such persons without proper identification.

Any person may be extended the privilege of the floor by invitation previously extended by a majority vote of members of the Senate, but such privilege shall be extended only for a specified time and purpose. No person who shall have been extended the privilege of the floor for a specified time shall engage in any activities for or against any bill, motion or other proceeding upon the floor of the Senate while in session. No privilege of the floor shall be granted to any registered or unregistered lobbyist or legislative agent if the same be known by the Senate, and it shall be the duty of any Senator having such knowledge to bring it to the attention of the Senate, and lobbying shall be grounds for revocation of this privilege.

A special section of the gallery shall be reserved for the guests of members, who shall be admitted upon presentation of an identification card. Senators may submit the names of guests to the Clerk, who shall read the names to the Senate.

Rule 71. **Restriction of lobbying and access to the Senate Chambers and office areas.** No person shall engage in lobbying for or against any measure while the Senate is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the Senate, and no registered lobbyist shall enter that part of the Capitol while the Senate is in session, including such time that the Senate has resolved itself into a committee of the whole. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the Senate galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the Senate. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from such member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol.

Rule 72. **Restrictions.** No article, booklet, pamphlet or any other printed matter shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. The Sergeant-at-Arms shall be charged with the duty of enforcing this rule.

SENATE CONFIRMATION

Rule 73. **Requests for Confirmation of Executive Appointments.** When a communication is received by the Senate requesting its confirmation of an appointment of an officer or officers to membership on an executive agency body the question of such confirmation shall be referred to the Committee on Committees for its consideration and action. The Committee on Committees shall refer the matter to a standing committee, to the Senate sitting as a committee of the whole, or directly to the

Rules Committee. Any question of confirmation of an appointment reported to the floor by a standing committee or the Senate sitting as a committee of the whole shall then be referred to the Rules Committee. Any person whose confirmation of appointment is under consideration by a standing committee or the Senate sitting as a committee of the whole shall appear for the purpose of offering testimony before such committee at its direction prior to final committee action on the matter, unless such appearance is waived by vote of the committee.

RULES

Rule 74. Mason's Manual. In the absence of a specific rule of the Senate, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two thirds, it shall mean in this Senate a majority of all the members elected thereto.

Rule 75. Change of Rules. The Rules of the Senate, after their adoption, shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the Senate; notwithstanding any other rule of the Senate to the contrary, a constitutional majority of the Senate may suspend the rules at any time for any purpose. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

There being no objection **HR 1** was adopted.

Representative Stumbo moved the adoption of the following **HR 2**:

HR 2, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open session of the 1997 Extraordinary Session with prayer.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open daily sessions of the 1997 Extraordinary Session with prayer.

There being no objection **HR 2** was adopted.

Representative Stumbo moved the adoption of the following **HR 3**:

HR 3, A RESOLUTION directing appointment of a committee to wait upon the Governor.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the 1997 Extraordinary Session of the General Assembly is prepared to receive any messages he may care to deliver.

There being no objection **HR 3** was adopted.

The Speaker appointed the following Committee to wait upon the Governor: Representatives Gooch, Lee, Jordan, Haydon, Miniard and Stacy.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Committees meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the House observe a moment of silence for former Speaker Don Blandford who was hospitalized with a sudden illness. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Education: **HB 1**

Representative Stumbo moved that the rules be suspended to allow the Committee on Education to meet upon recess to waive the one day posting requirement on **HB 1**. Agreed.

Recess

Representative Stumbo moved to suspend the rules for the House to recess. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committee

The Committee on Education reported **HB 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to postsecondary education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depend in large measure upon the development of a well-educated and highly-trained workforce; and

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

(d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system that ensures reasonable access throughout the Commonwealth to:

1. A two (2) year course of general studies designed for transfer to a baccalaureate program;

2. The training necessary to develop a workforce with the skills to meet the needs of existing companies and to attract new and expanding businesses and industries; and

3. Remedial and continuing education to improve the quality of life and employability of the citizens of the Commonwealth; and

(f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to function in society;

(3) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;

(4) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;

(5) "Committee" means the Strategic Committee on Postsecondary Education created in Section 4 of this Act;

(6) "Council" means the Council on Postsecondary Education created in Section 71 of this Act;

(7) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(8) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

(9) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:

(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

(b) The University of Kentucky Community College System, formerly administered by the board of trustees of the University of Kentucky. This branch does not include the Lexington Community College, which shall be administered by the board of trustees of the University of Kentucky.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

(10) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(11) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(12) "Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(13) "Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(14) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(15) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning college-level work as defined by the institution;

(16) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(17) "Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and

(18) "Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Strategic Committee on Postsecondary Education is hereby created and established. The committee shall be composed of members appointed by the Council on Postsecondary Education, the Governor, and the General Assembly. The council's representatives shall consist of the chair of the council, the president of the council, and six (6) members of the council designated by the chair. The Governor's representatives shall consist of the Governor and seven (7) persons designated by the Governor. The General Assembly's representatives shall consist of the President of the Senate, the Speaker of the House of Representatives, the Majority and Minority Floor Leaders of both chambers of the General Assembly, the minority caucus chair of each chamber, and the chair of the Committee on Appropriations and Revenue of each chamber.

(2) The chair of the council shall serve as chair of the committee. The committee shall meet at least quarterly and at other times upon the written call of the chair or of majorities of any two (2) of the three (3) groups that compose the committee.

(3) Nonlegislative members of the committee shall serve without compensation, but shall be reimbursed for their actual and necessary expenses, as set forth in KRS 12.070(5). Committee members who are Kentucky legislators shall be compensated for attendance at committee meetings from the legislative branch budget bill and as set forth in KRS 6.190.

(4) The committee shall serve as a forum for the council and the elected leadership of the Commonwealth to exchange ideas about the future of postsecondary education in Kentucky.

(5) The council shall periodically review the implementation plans for the strategic agenda and advise the committee of the actions necessary to meet the goals established in Section 2 of this Act. The elected leaders shall review and comment on the strategic agenda and the timetable for implementation.

(6) The Governor shall advise the committee about the financial condition of the Commonwealth and the probable funds the executive branch intends to recommend to the General Assembly to be appropriated for postsecondary education.

(7) The legislative members shall react to the comments of the council and the Governor.

(8) The council shall advise the committee about its opinion of how the postsecondary education funds projected to be available should be allocated based on priorities and projected resources. Nothing in this section shall be construed to infringe upon the Governor's duty under KRS 48.100 to recommend appropriations to the General Assembly or upon the General Assembly's power to make final appropriations in the enacted budget.

(9) The committee shall have the advisory authority not explicitly prohibited by statute that is necessary to carry out and effectuate its advisory functions, duties, and responsibilities, including the following:

(a) Receive reports from the council on the development and implementation of the long-term and biennial strategic agendas, including biennial budget plans for postsecondary education, and any subsequent and related strategic agendas and budget plans;

(b) Review the council's proposed biennial strategic agenda for the next fiscal biennium, including plans for accountability and the accomplishment of the objectives in the strategic agenda;

(c) Consider and advise the council on the general budget parameters regarding development of the postsecondary budget for the next fiscal biennium;

(d) Review biennial budget requests from the council for the next fiscal biennium including base funding, increases in base funding, and funding for a strategic investment and incentive funding program including criteria to be used in allocating these funds to institutions;

(e) Receive from the council, at least annually and on a more frequent basis if requested by the committee, accountability reports, budget information, and other information the committee deems proper; and

(f) Serve as the search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to serve as the first president of the council. Once appointed, the president shall serve at the pleasure of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to

ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 72 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and

3. Sustain a long-term commitment for change, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 82 of this Act.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, Kentucky Community and Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university and the Kentucky Community and Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university or the Kentucky Community and Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Community and Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for

instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities and the Kentucky Community and Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner. The regional universities shall be the primary developers and deliverers of baccalaureate and masters degree programs to be delivered by distance learning.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Community and Technical College System shall appoint a chancellor to head the Community Colleges' Branch and a chancellor to head the Technical Institutions' Branch, except that the present chancellor of the University of Kentucky Community College System, formerly governed by the University of Kentucky board of trustees, shall serve as the chancellor of the Community Colleges' Branch.

(2) The chancellors shall be appointed from candidates selected in a search by a search committee. When a new chancellor is needed to head the Community Colleges' Branch, the president of the system shall appoint a chancellor from a list of three (3) candidates nominated by a search committee composed of equal representatives appointed by the University of Kentucky board of trustees and the Kentucky Community and Technical College System board of regents.

(3) The chancellors shall possess the necessary skills to guide and direct the institutional missions of the respective branches.

(4) Each chancellor shall be responsible for:

(a) Administering the programs and services for the respective branches;

(b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff of the respective branch;

(c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;

(d) Supervising the development of policies within the overall framework of the system;

(e) Advocating the needs of the students, institutions, and staff under their respective jurisdictions;

(f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the community colleges and the technical institutions;

(g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;

(h) Preparing accountability reports and other reports as needed;

(i) Preparing internal budget plans; and

(j) Other duties as identified by the president.

(5) Each chancellor shall serve at the pleasure of the president.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the Kentucky Community and Technical College System.

(a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 66 of this Act or the Kentucky Employees Retirement System under Section 35 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs;

and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

(3) Tuition shall be waived for each full-time faculty member to take a maximum of six (6) credit hours annually at any state-supported postsecondary institution.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the former University of Kentucky Community College System, except for the Lexington Community College, and shall assume all assets and liabilities of this system, except for the Lexington Community College, including without limitation, all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property including improvements, facilities, funds, and records relating to the operation of the community colleges, except those responsibilities, programs, staff, equipment, real property including improvements, facilities, funds, and records, pertaining to the Lexington Community College. The president and board of regents of the Kentucky Community and Technical College System shall have jurisdiction over the use and distribution of the resources to operate the system effectively and efficiently. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the community colleges, except the real property pertaining to the Lexington Community College, from the University of Kentucky to the Kentucky Community and Technical College System.

(2) All funds that are allocated in the University of Kentucky budget for administering the system, including the personnel, operating, and capital funds shall be transferred to the board, except those allocated to Lexington Community College. The transfer of funds shall include funds held in escrow, invested funds solely for the purpose of the community colleges, and bequests specifically earmarked for the community colleges. The board may divide the assets among the specific organizations and institutions within the system to meet the mission of the system. Funds raised by a not-for-profit organization for the use and benefit of a specific program or community college shall be used exclusively for the program or community college.

(3) The board shall adopt the rules that were policy as of June 30, 1998, in the University of Kentucky administrative regulations to govern personnel transferred as of July 1, 1998, except that the rules shall provide that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply to the transferred employees:

(a) Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

(b) Employees with tenure shall transfer their tenure. Transferred employees without tenure shall earn tenure based on personnel policies in effect at the time of their employment. New employees without tenure shall earn tenure based on the new policies established by the board;

(c) Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998; and

(d) All employees shall be provided the benefit package that is available on June 30, 1998, for the University of Kentucky employees, including participation in an optional retirement plan.

(4) A transferred employee may elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the existing rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. The employee shall have the right to exercise this option at any time.

(5) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules established by the board.

(6) Tuition shall be waived for each full-time faculty member to take a maximum of six (6) credit hours annually at any

state-supported postsecondary institution.

(7) Students enrolled in the University of Kentucky Community College Branch in the Kentucky Community and Technical College System, governed by the board of regents, shall be guaranteed the same rights and privileges they had in the University of Kentucky Community College System, previously governed by the University of Kentucky board of trustees. These privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award contest, and University of Kentucky scholarship programs.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Community and Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Community and Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education and to the Strategic Committee on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Kentucky Community and Technical College System may, at its option, continue to contract for necessary services from the University of Kentucky that it provided to the community colleges prior to the establishment of the Kentucky Community and Technical College System, or it may provide for some or all of the services through its own employees and facilities, or it may contract for those services with other providers. These services shall be provided at a reasonable cost and shall include, but not be limited to, library services and processing scholarships and student loans. The University of Kentucky shall be reimbursed the reasonable costs of services. The Kentucky Community and Technical College System shall not be assessed by the University of Kentucky for rental charges or other similar fees for the use of real or personal property. The Council on Postsecondary Education shall resolve any disputes about services to be provided and costs to be charged for the services.

SECTION 24. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities and the Kentucky Community and Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Community and Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 25. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999 and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:

(a) A baseline analysis and projections of economic conditions and outlook;

(b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and

(c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 26. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.
II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.

(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.

(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
   (a) Department for Health Services.
   (b) Department for Social Insurance.
   (c) Department for Social Services.
   (d) Department for Medicaid Services.
   (e) Department for Mental Health and Mental Retardation Services.
   (f) Commission for Children with Special Health Care Needs.
   (g) Public Assistance Appeals Board.
   (h) Office of Administrative Services.
   (i) Office of Communications.
   (j) Office of General Counsel.
   (k) Office of Inspector General.
   (l) Office of Policy and Budget.
   (m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
   (a) Office of Legal and Legislative Services.
   (b) Office of Management and Budget.
   (c) Office of Financial Management and Economic Analysis.
   (d) Office of the Controller.
   (e) Department for Administration.
   (f) Department of Facilities Management.
   (g) Department of Information Systems.
   (h) State Property and Buildings Commission.
   (i) Kentucky Pollution Abatement Authority.
   (j) Kentucky Savings Bond Authority.
   (k) Deferred Compensation Systems.
   (l) Office of Equal Employment Opportunity Contract Compliance.
   (m) Capital Plaza Authority.
   (n) County Officials Compensation Board.
   (o) Kentucky Employees Retirement Systems.
   (p) Commonwealth Credit Union.
   (q) State Investment Commission.
   (r) Kentucky Housing Corporation.
   (s) Governmental Services Center.
   (t) Kentucky Local Correctional Facilities Construction Authority.
   (u) Kentucky Turnpike Authority.
   (v) Historic Properties Advisory Commission.

9. Labor Cabinet:
   (a) Department of Workplace Standards.
   (b) Department of Workers' Claims.
   (c) Kentucky Labor-Management Advisory Council.
   (d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on ***Postsecondary***[~~Higher~~] Education.

(a) Kentucky Community Service Commission.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

7. Department of Veterans' Affairs.

8. Kentucky Commission on Military Affairs.

Section 27. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***[~~Higher~~] Education[~~ (The state universities and colleges shall report through the Council on Higher Education)~~];

(2) Department of Military Affairs;

(3) Department of Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs; and

(7) Coal Marketing and Export Council.

Section 28. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***[~~of higher education~~] pertaining to students attending or applicants to ***the***[~~such~~] institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 29. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;[~~ and~~]

(z) Employees of the Kentucky Peace Corps***; and***

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided ***in KRS 18A.005 to 18A.200***[~~herein~~].

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 18 of this Act; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 30. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Community and Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville

Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 31. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Community and Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 32. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,[~~ and~~] Eastern Kentucky University***, and the Kentucky Community and Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 33. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;~~[and]~~
9. Eastern Kentucky University***; and***
10. Kentucky Community and Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and
(b) Structure of the bond issue; and
(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 34. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state~~[colleges or]~~ universities ***and the Kentucky Community and Technical College System*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state~~[college or of the]~~ university ***or the Kentucky Community and Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 35. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state

government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***[~~Higher~~] Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively***,*** and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);[~~ and~~]

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 36. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 37. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The chief state school officer or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) The executive director of the Public Service Commission or his designee;

(k) One (1) representative of local governments to be appointed by the Governor; and

(l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 38. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 39. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,~~[and]~~ Murray State University***, and the Kentucky Community and Technical College System***, and members of the Kentucky Board of Education and the Council on ***Postsecondary***~~[Higher]~~ Education shall not be removed except for cause.

Section 40. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Community and Technical College System***[~~Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet~~];

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The ***chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System***[~~commissioner of the Department for Adult and Technical Education~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions[~~ hereunder~~].

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 41. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered***:***[~~;~~]

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***[~~;~~]

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows~~:~~

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 42. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***~~[herein]~~.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of~~[nondegree programs in post-secondary and vocational-technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational-technical schools,]~~ state-operated ***secondary*** area vocational education ***and technology*** centers~~[, state technical institutes, and technology centers]~~. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***~~[Kentucky Board of Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education]~~. ***In addition to direct appropriations, funds appropriated to support*** the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to

fill positions in hard-to-find teaching ***specialties***[~~specialities~~]. Such agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***[~~45~~]. All such agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 43. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.[~~ The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.~~]

(2) There is hereby created a Division of ***Administrative***[~~Federal Programs and Support~~] Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***[~~the Kentucky Tech System~~] within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***[~~vocational technical schools and~~] area ***vocational education and technology*** centers[~~ known as the Kentucky Tech System~~]. The office shall be composed of the Division of School ***Management***[~~Operations~~], the Division of ***Curriculum Services***[~~Program Management~~], an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 44. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the ***state-operated area vocational education and technology centers***[~~Kentucky Tech System~~] school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the

administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 18 of this Act; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 45. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***[~~schools~~] shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 46. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Community and Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Community and Technical College System***[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the~~

~~community colleges, state vocational technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational technical occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical occupational nature.~~]

Section 47. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 48. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Community and Technical College System and other postsecondary institutions*** when feasible. No public institution of higher education[~~, including the community colleges,~~] shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the ***review***[~~consent~~] of the[~~ State~~] board ***of regents*** for ***the Kentucky Community***[~~Adult~~] and Technical ***College System and the approval of the Council on Postsecondary*** Education. The[~~ State~~] board ***of regents*** for ***the Kentucky Community***[~~Adult~~] and Technical ***College System***[~~Education~~], with approval of the Council on ***Postsecondary***[~~Higher~~] Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 49. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***[~~vocational technical schools and~~] area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for[~~ postsecondary pupils and~~] adults who are enrolled ***in secondary programs*** in the state***-*** operated[~~ vocational technical schools and~~] area vocational education ***and technology*** centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System***.[~~ The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.~~]

Section 50. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***[~~vocational technical schools~~] and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***[~~state vocational technical~~] schools ***under its jurisdiction***[~~and area vocational education centers~~]. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary[~~ and postsecondary~~] students[~~ and adults~~], the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 51. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce

Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to***,*** the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) [~~The commissioner of the Department for Technical Education;~~

~~(g)~~]The commissioner of the Department for Adult Education and Literacy;

(g)[~~(h)~~] The commissioner of the Department for the Blind;

(h)[~~(i)~~] The ***two (2) chancellors***[~~chancellor~~] of the[~~ University of~~] Kentucky Community ***and Technical*** College System;

(i)[~~(j)~~] A representative from the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(j)[~~(k)~~] A representative from the Kentucky Chamber of Commerce; and

(k)[~~(l)~~] Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or

other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 52. KRS 151B.410 is amended to read as follows:

(1) The Department for Adult Education and Literacy shall administer an adult education learning system in regions of the state. The adult education learning system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical schools,~~[University of Kentucky]~~ community colleges, regional universities,~~[and]~~ adult ***education centers,***~~[and]~~ family resource centers, adult correctional facilities, and other institutions.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education learning system may include: the Adult Education Act as amended by the National Literacy Act; Kentucky Education Reform Act funded family resource centers; Job Training Partnership Act; Kentucky Bluegrass State Skills Corporation, Job Opportunities and Basic Skills program; adult technical education;~~[University of Kentucky]~~ community college system; Parent and Child Education programs; student scholarship and grants; fees for services rendered; and other general, agency, local, federal, and private funds.

(2) Services included as part of the adult education learning system shall include, but not be limited to:

(a) Functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills;

(b) Literacy and adult basic education which includes learning for those with academic educational skills below the ninth grade level;

(c) Adult secondary education that includes learning above the ninth grade level including GED preparation and the external diploma program, that is a competency-based assessment system which credentials mature adults who have acquired high school level skills through life experiences;

(d) Family literacy programs, that have a goal of intergenerational transfer of cognitive skills, support of children's education, participation in Kentucky Education Reform Act and breaking the poverty cycle, by offering basic skills and competencies with parenting, life skills, and parent-child interactive activities; and

(e) English as a second language programs for adults who have limited English proficiency.

(3) (a) The Department for Adult Education and Literacy within the Cabinet for Workforce Development may establish regional adult education advisory committees, representing adult education practitioners, state vocational technical and~~[University of Kentucky]~~ community college educators, employment and career advisors, business and industry participants, employees, students, and organized labor.

(b) The adult education advisory committees shall meet at least twice a year to:

1. Advise the Department for Adult Education and Literacy on the regional training services and needs in the area of adult education and functionally-contexted workplace essential skills;

2. Report the number and location of referral and access points that have identified an adult population who is or could benefit from service and has an active interest in participation;

3. Report the number and location of entrance points that have identified an adult population who has been referred for service; and

4. Report the number of adults served and the number completing programs, method of payment for services, outcomes of service provision, and career and employment change following program completion.

(4) In administering an adult education system, the Department for Adult Education and Literacy shall:

(a) Establish regions for purpose of implementing an adult education learning system assisting local programs;

(b) Make provision for quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including GED preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(c) Develop student assessments in coordination with other educational and employment entities, allowing assessments to be shared when necessary with appropriate personnel for accessing students, additional educational programs, taking into consideration student confidentiality;

(d) Establish professional credentials for instructors, and make provision for the development of those providers who have not attained the established credentials;

(e) Develop criteria for certifying adult education providers;

(f) Develop administrative regulations for consideration by the Cabinet for Workforce Development and the State Board for Adult and Technical Education, including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(g) Require and monitor compliance with Cabinet for Workforce Development administrative regulations and policies; and

(h) Develop and implement performance measures and benchmarks.

Section 53. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***[~~chairman~~] of the Council on ***Postsecondary***[~~Higher~~] Education, the secretary of the Cabinet for Workforce Development and the ***president***[~~chancellor~~] of the[~~ University of~~] Kentucky Community ***and Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 54. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B,[~~ on or before January 1, 1995,~~] the University of Kentucky, Eastern Kentucky University, Morehead State University, ***and*** the ***Kentucky*** Community ***and Technical*** College System[~~ of the University of Kentucky, and the Kentucky Tech System~~] in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) No state agency provider of workforce training shall reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-

secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 55. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 56. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education, Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;
(b) One (1) member of the House of Representatives;
(c) One (1) member of the Senate; and
(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 57. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 58. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

(b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Cabinet for Workforce Development;[~~ and~~]

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

(h) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 59. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***[~~Higher~~] Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***[~~Higher~~] Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 60. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***[~~Higher~~] Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 61. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***[~~Higher~~] Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 62. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***[~~Higher~~] Education for educational institutions under their jurisdiction. ***The***[~~Such~~] rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing; and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 63. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***[~~Higher~~] Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 64. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the

president[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 65. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education[~~ no later than December 1, 1993,~~] that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 66. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

  (a) Local boards of education;

  (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community[~~ or junior~~] colleges established under the control of these universities***, and the Kentucky Community and Technical College System and any community colleges or technical institutions established under its control***;

  (c) ***State-operated secondary***[~~State and~~] area vocational ***education or area technology centers***[~~schools~~], Kentucky School for the Blind, and Kentucky School for the Deaf;

  (d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

  (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

  (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

  (g) The Department for Adult Education and Literacy;

  (h) The Department for Technical Education;

  (i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

  (j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

  (k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

  (l) The Department of Vocational Rehabilitation;

  (m) The Kentucky Educational Collaborative for State Agency Children;

  (n) The Governor's Scholars Program; and

  (o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement

System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 67. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions[~~ of higher education~~] who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***[~~pursuant to~~] KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific

provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions[~~ of higher education~~];

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions[~~ of higher education~~]; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 68. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions[~~ of higher education~~] identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution[~~ of higher education~~] which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 69. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution[~~ of higher education~~], the Council on ***Postsecondary***[~~Higher~~] Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***[~~Higher~~] Education Student Advisory Committee;
3. Associations representing faculty from universities and community colleges;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a

successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on ***Postsecondary***[~~Higher~~] Education pursuant to KRS 164.011, except ***for*** the ***four (4) members of the Kentucky Community and Technical College System who shall be nominated by the board of trustees of the University of Kentucky under Section 95 of this Act***[~~student member~~]. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***[~~Higher~~] Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 70. KRS 164.0053 is amended to read as follows:

(1) No appointing authority shall appoint himself or his spouse, or the Governor or his spouse***,*** to a[~~ university~~] governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***[~~Higher~~] Education created pursuant to KRS 164.011.

(2) No full-time employee of a public institution of ***postsecondary***[~~higher~~] education shall be eligible to serve on the Council on ***Postsecondary***[~~Higher~~] Education or on the governing board of another institution of ***postsecondary***[~~higher~~] education, except the community ***and technical*** college faculty ***and nonteaching personnel***[~~representative~~] serving on the ***board of regents for the Kentucky Community and Technical College System***[~~University of Kentucky Board of Trustees~~].

(3) ***No postsecondary institution shall award an honorary degree to a sitting governor.***

(4) All[~~ university~~] governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***[~~Higher~~] Education shall have no conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 71. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***[~~shall be~~] a Council on ***Postsecondary***[~~Higher~~] Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***thirteen (13) voting***[~~the chief state school officer, and seventeen (17) lay~~] members appointed by the Governor ***with the consent of the Senate and the House of***

Representatives under KRS 11.160, and the commissioner of education, who shall serve as a nonvoting ex officio member. Appointive council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 69 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly[~~: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member~~].

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 69 of this Act. On making appointments to the council, the Governor shall assure broad geographical representation and assure no less than proportional representation of the political and minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve***[~~The student member shall be enrolled as a full-time student at a state public institution of higher education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions of higher education and one (1) representative of the community college student body presidents elected from among themselves, shall elect by majority vote of the nine (9) presidents three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member~~].

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments***[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each appointive member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

(a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one (1) of which shall be the student member~~];

(b) ***Two (2) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];

(c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];

(d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];

(e) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve five (5) year terms~~]; and

(f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) ***The Governor shall appoint the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the Governor. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of seven (7) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 72. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) ***Develop and implement the state strategic postsecondary education agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;***

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 82 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Community and Technical College System. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the~~

~~formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11)[~~(5)~~] Review and approve all capital construction projects ***including real property acquisitions covered by KRS 45.750(1)(f) regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System;***

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the[~~ University of~~] Kentucky Community ***and Technical*** College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~ or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature.***

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;

(b) Alignment with the priorities in the state strategic postsecondary education agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall ~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions***;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment***;***[~~.~~]

(22)[~~(13)~~] ***Maintain***[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[~~ after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee***;***[~~.~~]

(23)[~~(14)~~] Monitor and ***transmit a*** report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee***;***[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state ***postsecondary educational*** institution[~~ of higher education~~] a comprehensive orientation program ***for new members of the council and the***[~~to be carried out by the respective institution for newly appointed~~] governing ***boards***[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning ***the roles of the council, the Strategic Committee on Postsecondary Education, the state strategic postsecondary education agenda and the implementation plan, and*** the respective institution's mission, budget, plans, policies, strengths, and weaknesses. ***The council and governing board members shall sign a statement affirming their understanding of the state strategic postsecondary education agenda and the mission of their respective institutions at the end of the orientation session;***

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities; and

(32) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 73. KRS 164.0205 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall promote, support, and assist in the program created in KRS

158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 74. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning ***and the president of the Kentucky Community and Technical College System*** shall serve on an advisory conference for the Council on ***Postsecondary***[~~Higher~~] Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on ***Postsecondary***[~~Higher~~] Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on ***Postsecondary***[~~Higher~~] Education will meet with the Advisory Conference of Presidents.

Section 75. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***[~~Higher~~] Education shall pay to the college not more than two hundred dollars ($200) per school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 76. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 77. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas

which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 78. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 79. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees and qualifications for admission to and reports from their respective institutions.

Section 80. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty-five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 81. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 82. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

(b) "Institution" means public universities, their subdivisions, and the[~~ University of~~] Kentucky Community ***and Technical*** College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this Act***[~~standards~~]. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***[~~through a collaborative effort involving~~] the ***postsecondary educational***[~~higher education~~] institutions and the Council on ***Postsecondary***[~~Higher~~] Education.

(3) The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:

(a) Educational quality and educational outcomes;

(b) Student progress in the postsecondary system;

(c) Research and service activities;

(d) Use of resources;

(e) Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and

(f) Other indicators as deemed appropriate by the Council on Postsecondary Education.

(4) The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions[~~The accountability process shall be implemented in phases as follows:~~

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program~~].

(5) [~~(b) Beginning December 1, 1993,~~]The Council on ***Postsecondary***[~~Higher~~] Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 83. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions[~~ of higher education~~] in the state;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs[~~ and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution~~].

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 84. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 72 of this Act, as a condition of their appointment. At the end of the orientation session, the members shall sign a statement affirming their understanding of the state strategic postsecondary education agenda and the mission of the university.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) ***Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.***

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky,[~~ one (1) member of the teaching faculty of the community college system,~~] and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3)[~~(a)~~] The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

[~~(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.~~]

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) ***No member of the board shall serve more than two (2) consecutive terms.***

Section 85. KRS 164.150 is amended to read as follows:

No member of a governing board of a public institution of ***postsecondary***[~~higher~~] education shall be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 86. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 138 of this Act*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 87. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher learning~~] in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***[~~Higher~~] Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky.

Section 88. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions[~~ of higher learning~~] is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 89. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution[~~ of higher education~~] is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.

Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 90. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~ of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of higher education including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 91. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~ of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 92. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~] Education may have a faculty member as a voting member of its board of trustees or regents.

Section 93. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees***,*** and programs beyond the masters-degree level to meet the requirements for teachers, school leaders***,*** and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the[~~ University of~~] Kentucky Community ***and Technical*** College System, as provided ***in Section 109 of this Act***[~~by this chapter~~].

Section 94. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Community and Technical College System***[~~(or College)~~].

Section 95. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Community and Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor and six (6) elected members as described in subsections (6), (7), and (8) of this section.

1. Four (4) members shall be appointed by the Governor from three (3) nominations for each of four (4) appointments, recommended by the board of trustees of the University of Kentucky. The Governor may request additional nominations at his discretion.

2. Four (4) members shall be appointed by the Governor from nominations by the Governor's Postsecondary Nominating Committee, under Section 69 of this Act.

No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Community and Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

No member of a board of regents shall be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representatives of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member

does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 72 of this Act, as a condition of their appointment. Members shall sign a statement, affirming their understanding of the state strategic agenda for postsecondary education and the mission of the respective institutions they represent.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Community and Technical College System shall be appointed by July 31, 1997.

Section 96. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the ***appropriate institution***[~~university or college~~].

Section 97. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities and ***of the Kentucky Community and Technical College System***[~~state colleges~~], no person who is a member of either house of the Kentucky General Assembly shall serve as a member of the board of trustees or board of regents of any state-supported ***institution***[~~college or university~~].

Section 98. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the ***institution***[~~university or college~~] or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 99. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and ***the Kentucky Community and Technical College System***[~~colleges~~] is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a)[~~(1)~~] Receive grants of money and expend the same for the use and benefit of the university or college;

(b)[~~(2)~~] Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;

(c)[~~(3)~~]Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;

(d)[~~(4)~~] Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and

(e)[~~(5)~~]Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system. The guidelines pertaining to community colleges shall define the processes for review and approval by the boards of directors for the community colleges;

(b) Adopt a consolidated budget request upon the recommendation of the chancellors of the branches and president of the system for submission to the Council on Postsecondary Education for approval;

(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and

(d) Consider recommendations from the boards of directors of the community colleges to improve the overall budget planning and allocation processes.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted long-term and biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.

Section 100. KRS 164.351 is amended to read as follows:

(1) State colleges and universities *and the Kentucky Community and Technical College System* shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state *technical institution, community* college*,* or university shall inform students of the name and telephone number of a *technical institution, community college,* college*,* or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 101. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state*-*supported institution of *postsecondary education*[~~higher learning~~] provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 102. KRS 164.360 is amended to read as follows:

(1) *(a)* Each board of regents *for the universities* may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Community and Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or *Kentucky Community and Technical College System*[~~college~~], and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 103. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University *and the Kentucky Community and Technical College System*, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Community and Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.

Section 104. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Community and Technical College System*** shall establish such incidental fees and nonresident tuition fees as will be sufficient for the purpose of paying the incidental expenses of the university or college and as are consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. No money derived from nonresident tuition or other fees paid by students shall be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 105. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 138 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase***,*** and hold property ***under Section 138 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 138 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 106. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount***,*** and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 107. KRS 164.4781 is amended to read as follows:

[~~By the beginning of the 1986-87 school year, ~~]There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***[~~Higher~~] Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.[~~ By the beginning of the 1987-88 school year,~~] The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 108. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***[~~Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races~~].

Section 109. KRS 164.580 is amended to read as follows:

(1) The[~~ University of~~] Kentucky Community ***and Technical*** College System is established. ***The Kentucky Community and Technical College System***[~~Each community college~~] shall provide:

(a)[~~(1)~~] A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;

(b)[~~(2)~~] Technical and semiprofessional programs of two (2) years or less;[~~ and~~]

(c)~~[(3)]~~Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented*; and*

(d) Services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state.

(2) The Kentucky Community and Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever- changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) Students attending the University of Kentucky Community College System Branch under the administration of the board of regents for the Kentucky Community and Technical College System may pursue three (3) kinds of degree programs:

(a) Associate degree programs that were previously approved by the University of Kentucky board of trustees before the establishment of the Kentucky Community and Technical College System but that are now under the academic control of the University of Kentucky Community College System Branch and board of regents. These programs shall be periodically reviewed by a process established by the University of Kentucky board of trustees. A report shall be forwarded to the chancellor of the branch, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The University of Kentucky board of trustees shall confer degrees and award diplomas for these programs;

(b) Associate degree programs that are developed by the Kentucky Community and Technical College System and approved by the board of regents and the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for the approved programs; and

(c) Joint degree programs that are developed between the University of Kentucky Community College System Branch and the Technical Institutions' Branch or other institutions.

(4) The board of regents for the Kentucky Community and Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(5) Each community college shall have the primary responsibility through its faculty senate and governance structure for determining academic policy and programs that shall be recommended through the chancellor to the president of the Kentucky Community and Technical College System and to the board of regents for approval.

(6) The Technical Institutions' Branch through its faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

Section 110. KRS 164.583 is amended to read as follows:

(1) Each community college of the~~[University of]~~ Kentucky Community *and Technical* College System may offer, within the two (2) year academic curriculum of the college, any and all lower division academic courses offered for

undergraduate credit at any and all of the four (4) year state***-***supported colleges and universities.

(2) All lower division academic courses offered by the community colleges shall be transferable for academic credit to any and all four (4) year state***-***supported colleges and universities, regardless of the number of academic credits earned by any student at one (1) or more community college.

(3) Nothing ***in this section***[~~herein~~] shall be construed or interpreted to change, reduce, or otherwise affect the required distribution between lower division and upper division courses now required for matriculation in an undergraduate program at any institution of higher education.

Section 111. KRS 164.591 is amended to read as follows:

A community college ***or extension of a community college*** shall be maintained in each of the following locations: Ashland, Carrollton, Cumberland, Elizabethtown, Glasgow, Henderson, Hopkinsville, Madisonville, Owensboro, ***Paducah,*** Prestonsburg, Somerset, Blackey-Hazard, Jefferson County and Mason County. ***The University of Kentucky may continue to operate a community college in Lexington, and Western Kentucky University may continue to operate a community college in Bowling Green. Additional extension centers may be established by the board of regents for the Kentucky Community and Technical College System with approval of the Council on Postsecondary Education. New community colleges shall require approval of the General Assembly.***

Section 112. KRS 164.593 is amended to read as follows:

(1) The board of ***regents for the Kentucky Community and Technical College System shall recognize previous actions under prior law.***

(2) [~~trustees of the University of Kentucky, (herein called board) may include~~]Paducah Junior College ***may be included*** in the system provided for by KRS 164.580 upon the concurrence of the board and the board of trustees of Paducah Junior College. Following the concurrence of the two (2) boards***,*** an agreement shall be executed between the board and the board of trustees providing for the conversion of the existing facilities of Paducah Junior College and containing other provisions the parties deem appropriate and desirable. ***Notwithstanding the provisions of subsection (1) of this section, the Kentucky Community and Technical College System shall become the legal successor in interest to the University of Kentucky for any agreement executed according to the provisions of this subsection prior to the effective date of this Act.***

(3)[~~(2)~~] The agreement required by subsection ***(2)***[~~(1)~~] may provide for the transfer to the board of any funds accruing to Paducah Junior College as the result of any contract or agreement with any agency or instrumentality of the United States or the Commonwealth of Kentucky including any funds accruing pursuant to KRS 164.027.

(4)[~~(3)~~] Upon the execution of the agreement required by subsection ***(2)***[~~(1)~~], any taxes levied under KRS 165.170 or 165.175 and paid to the trustees shall continue to be received by the board of trustees of Paducah Junior College. However, the trustees may in the agreement[~~,~~] provide for the expenditure of the taxes levied for such purposes as the trustees and the board may mutually agree.

Section 113. KRS 164.594 is amended to read as follows:

(1) The community college in the Big Sandy Valley is designated as Prestonsburg Community College. The service area of Prestonsburg Community College shall include Pike County in its entirety.

(2) Course offerings in Pike County shall be expanded as necessary, to respond more fully to the higher and adult educational needs of the citizens of the area.

(3) The[~~ University of~~] Kentucky Community ***and Technical*** College System may use private or state funds to purchase, renovate, and otherwise make available physical facilities in the Pike County area conducive to educational purposes.

Section 114. KRS 164.595 is amended to read as follows:

(1) The board ***of regents for the Kentucky Community and Technical College System***[~~has the same powers with respect to the community colleges that it has as to the University of Kentucky in general. The board~~] shall designate each community college with a name that includes the words "Community College."

(2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction or operation of community colleges. The board may commemorate donations from private persons or corporations with suitable memorials.

(3) The board may accept federal grants to be used in the acquisition, construction, or operation of community colleges.

Section 115. KRS 164.597 is amended to read as follows:

[~~Upon prior concurrence of the board of trustees of the University of Kentucky and the board of regents of the Northern Kentucky University,~~]The Northern Community College at Covington shall be operated by the board of regents of the Northern Kentucky University and shall ***not***[~~no longer~~] be considered part of the[~~ University of~~] Kentucky Community ***and Technical*** College System. The board of regents of the Northern Kentucky University shall provide programs of a community college nature at Northern Community College at Covington comparable to those ***community colleges that make up the Kentucky***

Community and Technical College System[~~listed for the University of Kentucky community college system, as provided in this chapter~~].

Section 116. KRS 164.600 is amended to read as follows:

(1) There shall be a[~~ local advisory~~] board ***of directors*** for each community college ***under the Kentucky Community and Technical College System***, except as provided in KRS 165.160. Each[~~ local advisory~~] board ***of directors*** shall***:***

(a) Select and recommend the candidate for the community college president from three (3) candidates nominated by the chancellor of the community college system. The chancellor shall make the final appointment;

(b) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

(c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

(d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;

(e) Have the full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under Section 99 of this Act; and

(f) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education[~~serve in an advisory capacity to the board and the head of the community college on the operation of the community college~~].

(2) Each[~~ local advisory~~] board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)[~~ local advisory~~] board members shall be one (1) member of the teaching faculty and one (1) member of the student body.[~~ After July 13, 1990,~~] An appointed member's term ***shall be***[~~is~~] six (6) years[~~, however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years~~].

(3) The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the[~~ local advisory~~] boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(5) ***The***[~~Local advisory board~~] members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

(6) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

Section 117. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Community and Technical System***[~~State Board for Adult and Technical Education~~] and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 118. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the executive director of the Council on ***Postsecondary***[~~Higher~~] Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 119. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***[~~Higher~~] Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 120. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***~~[Higher]~~ Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent~~[nonprofit]~~ college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 121. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

(b) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the

benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 122. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

- (a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate degree programs of instruction;
- (b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;
- (c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 123. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

- ***(a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 72 of this Act as a prerequisite to their appointment. At the end of the orientation session, members shall sign a statement to affirm their understanding of the state strategic agenda for postsecondary education and their understanding of the mission of the institution.***
- ***(b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.***
- ***(c) No appointed member shall serve more than two (2) consecutive terms.***

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

- (a) Two (2) members shall serve one (1) year terms;
- (b) Three (3) members shall serve two (2) year terms;
- (c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;
- (d) Three (3) members shall serve four (4) year terms;
- (e) Three (3) members shall serve five (5) year terms; and
- (f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the

Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 124. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***[~~such~~] removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***[~~such~~] other officers as it deems wise, including the annual election of a ***six (6)***[~~five (5)~~] member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***[~~such~~] rules[~~ as~~] the board shall establish under its authority to make [~~such ~~]bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of[~~ such~~] reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 125. KRS 164.915 is amended to read as follows:

The[~~By July 1, 1991, the~~] Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***[~~Higher~~] Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 126. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on ***Postsecondary***[~~Higher~~] Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 127. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***~~[Higher]~~ Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***~~[Higher]~~ Education using the following criteria:

  (a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

  (b) The scope and volume of patient care;

  (c) The amount of available physical facilities;

  (d) The current number and types of residency positions offered at each university;

  (e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

  (f) The extent of involvement in education in primary care in ambulatory care settings; and

  (g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***~~[Higher]~~ Education.

Section 128. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***~~[Higher]~~ Education shall coordinate the activities of the participating institutions, as described in KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 129. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***~~[Higher]~~ Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 130. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to

the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***~~[herein]~~ shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers***,*** or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 131. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

(a) Irregularity and impairment in communication;

(b) Engagement in repetitive activity and stereotyped movement;

(c) Resistance to environmental change or change in daily routine; and

(d) Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 132. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky is authorized to operate a state autism training center, including:

(a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;

(b) The construction of necessary buildings;

(c) The expansion, remodeling, altering, or equipping of necessary buildings; and

(d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 133. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly

qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 134. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky recognized in KRS 164.100, 164.290, ***Section 109 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 135. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

(a) The treasurer of the ***institution***[~~university~~] shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

(b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 136. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***~~[university]~~ making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

(a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

(b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

(c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

(d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

(e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);

2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and

3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***[~~Higher~~] Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Section 137. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***[~~university~~] making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, and members of the governing board.

Section 138. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

  (a) Contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

  (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

  (c) Instructional materials available from only one (1) source;

  (d) Where rates are fixed by law or ordinance;

  (e) Library books;

  (f) Commercial items that are purchased for resale;

  (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

  (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

  (i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or ***lessor***[~~leasor~~] approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such

an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 139. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***[~~Higher~~] Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 140. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Community and Technical College System***[~~, but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council~~];

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

  (a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

  (b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

  (a) In aid of education; and

  (b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 141. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***[~~Higher~~] Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 142. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 143. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***[~~Higher~~] Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without

reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 144. KRS 332.110 is amended to read as follows:

(1) This chapter shall not apply to any school or educational institution which offers to full-time, regularly enrolled students as a part of its curriculum a course in driving instruction nor to automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles nor to employers who give instruction without charge to their employees.

(2) This chapter shall not apply to any college within the ***Kentucky Community and Technical College System***[~~University of Kentucky community college system~~] which offers to part-time students a course in drivers instruction where there is no school licensed pursuant to this chapter in the county.

Section 145. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***chancellor for the Technical Institutions' Branch in the Kentucky Community and Technical College System***[~~state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education~~] shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 146. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on ***Postsecondary***[~~Higher~~] Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 147. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.

164.575 Definition for KRS 164.575 to 164.600.

164.582 Definition for KRS 164.583.

186.1865 Special Kentucky Tech license plates.

Section 148. Whereas it is critical that an orderly transfer be made to establish the Kentucky Community and Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Chancellor of the University of Kentucky Community College, the Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for each system, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, operations, management, and support of the University of Kentucky Community College System, and other funds designated for these purposes, and transfer of the personnel and funds to the new systems shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources within the agencies described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Community and Technical College System is employed by the board of regents for the Kentucky Community and Technical College System.

Section 149. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 150. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Motions, Petitions and Communications

Representative Alexander moved that the rules be suspended to introduce guests and to grant floor privileges. Agreed.

Representative Alexander moved the adoption of the following **Legislative Citation No. 1**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends The Hazard High School "Lady Bulldogs" Varsity Basketball Team for outstanding performance working as a team for the accolade and honor of Hazard High School's athletic reputation. Whereas, the Lady Bulldogs used skill and extraordinary talent to secure the Championship of the "Girls' Sweet Sixteen" Basketball Tournament; therefore, it must be known that superb athletic performance such as has been demonstrated herein, is the result of hard work, persistent dedication and exceptional team spirit. As an integral part of Hazard High School, the phenomenal Lady Bulldogs Basketball Team has demonstrated a positive attitude and a winning character and brought praise to the community and school. The members of this honorable body join Representative Scott Alexander in recognizing the amazing talent of this extraordinarily talented team, applauds its spectacular achievements and extends its best wishes for continued success in all endeavors. **Legislative Citation No. 1** was adopted without objection.

Roll call to show co-sponsors for **Legislative Citation No. 1** is as follows: R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Marcotte, Maricle, Marzian, Mason, McKee, Moberly, Murgatroyd, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stewart, Stine, Stumbo, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman.

Representative Stumbo moved that the rules be suspended to introduce Resolutions. Agreed.

Introduction of Resolutions

HR 4, by Representatives Callahan, Murgatroyd: A RESOLUTION honoring the Northern Kentucky University basketball team that is visiting us today.

HR 5, by Representative Geveden: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard H. Lewis.

Recess

Representative Stumbo moved to suspend the rules for the House to recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to grant floor privileges to the Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Dr. John Calloway, Presbytery of Louisville.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

President Saunders and members of the Senate; Speaker Richards and members of the House; Chief Justice Stephens and members of the Judiciary; Lt. Governor Henry and members of the Executive Branch; my fellow Kentuckians, I've called the General Assembly to Frankfort in extraordinary session to consider how we as a people should prepare ourselves to approach a new century.

How can we meet the increasing competitiveness of a global economy? How can we make ourselves more productive? How can we increase our standard of living?

For most of my adult life, I've pondered the economic problems which have faced Kentuckians. As I've studied the history of Kentucky, I've learned that before the Civil War, Kentucky was one of the most progressive states in the union, a leader in education, medicine, transportation and commerce, a center of religion and culture, the most developed state on the frontier of the rapidly developing Midwest, producing such great leaders as Henry Clay, Cassius Marcellus Clay, Abraham Lincoln, and Jefferson Davis.

I've often wondered how, after starting so far ahead, did we fall so far behind. I've concluded that after the civil war, we as a people failed to invest in the future. We didn't invest in infrastructure and we didn't invest in education. Our leaders failed us. They ignored the needs of the next generation. They had no vision, no courage and no passion for excellence.

The result is a Kentucky which ranks 42nd in per capita income.
46th in the number of children in poverty, 42nd in population without a high school education and 39th in college graduates. I could go on and on citing statistics that are not flattering.

We're a state with limited economic opportunity: limited economic opportunity because our population has limited levels of educational attainment.

Allow me to illustrate my point with a few charts. According to a recent University of Kentucky report, as this chart shows, 57 percent of our low per capita income is directly caused by our low level of education. Another 29 percent of our low per capita income is indirectly caused by our low level of education.

In fact, as this next chart shows, a person's income is directly related to their education. A person with a high school education will, on average, earn almost 50 percent more than a person without one. A person with a bachelor's degree will earn almost twice as much as a person with a high school diploma. A professional degree is worth more than twice as much as a bachelor's degree.

In this day and age, every Kentuckian needs an education beyond high school, if they're going to have a decent chance of earning a good living. Only the lowest paid jobs can be assured with a high school education. Less than a high school education can be a sentence to a life of poverty.

This next chart shows that 22 percent of the jobs in the future will require a bachelor's degree or more, and yet only 13 percent of Kentuckians have a bachelor's degree. The national average is 20 percent. 56 percent of the jobs in the future will require a postsecondary skills development course of study of 2 years or less and yet our production of these types of skills would have to be increased by over 50 per cent if we're to reach the national average.

Only 22 percent of the new jobs of the future can be performed with a high school education or less and that number will continue to decline.

If we're going to catch up with the rest of the nation, we have to dramatically increase the output of our various postsecondary educational institutions.

This chart shows that we must increase associate degrees by 31 percent, bachelors degrees by 20 percent, and masters degrees by 41 percent to compete with the rest of the nation.

Increasing the production of this kind of education will be a tremendous challenge but the real problems are at the opposite ends of the educational spectrum. We'd have to increase our production of doctorate degrees by 69 percent to reach the national average and increase our production of courses of study of less than 2 years and credentialed by a certificate by 64 percent.

We need to improve our educational institutions at all levels but we really need to concentrate on our doctoral universities, the University of Kentucky and the University of Louisville, and our community based schools, Kentucky Tech and the Community Colleges.

The problem with our doctoral schools is a lack of focus and a lack of money. The problem with our community based schools is a lack of coordination and a lack of money.

Yes, we need to spend more money on postsecondary education but we also need to make it more focused and more efficient. To those who say, "if it ain't broke, don't fix it", I say it is broken, we must fix it and fund it.

I'm prepared to recommend that we as a people invest another $100 million in postsecondary education, an increase of over 20 percent for non-medical education and research. But to spend this much more money without fixing the system would be wasting taxpayer's money.

Why do we need to spend more money on colleges and universities? The percent of the General Fund spent on higher education declined from 17 percent in 1987 to 14 percent in 1997. During the four years prior to my taking office, higher education spending, adjusted for inflation, declined by 11 percent.

In the past, when times got tough and money was short, it was higher education that got cut. University budgets were cut 5 percent in '92,

7 percent in '93 and 2 percent in '94 to cover state revenue shortfalls.

Not unpredictably, the biggest problems with under funding are at the opposite ends of the spectrum, community education and doctoral research universities. We've never adequately funded our research universities and we've pitifully neglected our community colleges.

In the eight years before I took office, funding for community colleges went down 17 percent relative to similar institutions in surrounding states. When I assumed this office, they were funded at only 75 percent of their benchmark institutions. This decline in relative funding occurred while enrollment was increasing 46.5 percent. As I began to prepare my first budget, it wasn't difficult to see that our community colleges were in a crisis. That's why the first budget I submitted to you had a 9.5 percent increase for Community Colleges in the first year and a 6.7 percent increase the second year.

This $11 million increase brought funding up to 83 percent of benchmark, a major improvement, but still not enough. Our first budget also included major capital construction projects for our community college system at Hazard, Ashland, Hopkinsville, Madisonville, Pikeville and Prestonsburg.

My proposal will increase funding for our Community Colleges by another $11.7 million, raising total funding to 95 percent of benchmark, a 26 percent increase in funding for our Community Colleges in just two years. This past neglect of our Community Colleges must stop!

Kentucky Tech has been similarly neglected. Comparative statistics aren't available so we don't know how much funding for these institutions will need to be increased. But we do know we need to make major investments in equipment and teaching technologies.

As a matter of good faith , we recommend an additional three-million dollars to be appropriated to Kentucky Tech immediately. We'll study the needs of Kentucky Tech during the next six months and provide even more funds in the biennial budget I'll propose in the next regular session of the General Assembly.

Our proposal also includes an immediate appropriation to bring funding for all our regional universities to at least 95 percent of the funding for their benchmark institutions in surrounding states!!!

These appropriations to make our system more equitable will make our distribution of state funds to our postsecondary institutions the fairest it's been in a long time.

Our proposal will also include an immediate appropriation to begin to build excellence and a national reputation for education in Kentucky.

Each regional university will receive a special appropriation to help it become the best in a least one field of study. And, we'll begin the process of building the University of Louisville and the University of Kentucky into nationally respected doctoral research universities.

Our goal is to make every University in Kentucky known for excellence throughout the nation in twenty years. We'll have more than just basketball as a reason to be proud of our eight state supported universities.

And in the budget proposal in January of next year, we'll fund programs to provide more scholarships for Kentucky students, programs to provide community colleges and technical institutions the equipment needed to provide for a quality technical education program.

We'll fund a capital construction program to provide the buildings and the technology we need to create an electronic university and make a four year education available to every Kentuckian in or near their home.

This is an ambitious program, a program to build an efficient and responsive system of schools to educate our people, young and old, for the new millennium. It won't be easy, it won't be quick and it won't be cheap. But we can afford it. To those who say we can't afford this commitment, I say we can't afford not to make this commitment.

The only way we can change the course of this state's future, build a healthy economy and increase our revenue base for the long term, is to invest in education. We can do it, and for the sake of our children, we must do it.

But first, we must change the way our colleges and universities work. The first element of our proposal is to establish six distinct, measurable goals for our colleges and universities to be achieved by the year 2020, a little over 22 years from now.

The first goal is to establish a seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance the economy and the quality of life in Kentucky.

We'll establish at the University of Kentucky a first class comprehensive research university ranking in the top twenty public research universities in the United States.

The University of Louisville will become a nationally recognized metropolitan research university.

Each of the six regional universities will develop a national reputation in at least one area of study.

Our regional universities must provide statewide access to affordable, high quality baccalaureate and masters degree programs. These universities will use the latest electronic means to provide distance learning through a jointly operated virtual university to provide efficient access to a four year bachelor's degree to all Kentuckians, no matter where they live!

We'll develop a comprehensive community and technical college system that ensures reasonable access throughout the Commonwealth to the first two years of a course of general studies designed for transfer to a baccalaureate program. This united system will provide a technical skills training program adequate to develop a workforce to meet the needs of our new or existing businesses and industries. And it'll provide remedial and continuing education programs to improve the quality of life and employability of our people. We must have a community based postsecondary system which can compete effectively with any system in America.

And finally, we'll have an efficient, responsive and coordinated system of autonomous institutions which will deliver educational services to the citizens of the Commonwealth of a quantity and quality comparable to the rest of the nation.

Some would say this kind of an education system in Kentucky is an impossible dream. I say this kind of education system in Kentucky is what we should've committed ourselves to a hundred years ago.

To accomplish these goals, we propose to establish a council on postsecondary education consisting of thirteen outstanding Kentuckians, who'll be fair to every region of Kentucky, and every institution in the system. This council will select the most qualified educator- administrator they can find, who'll lead the Council as they develop a specific plan that we can implement to reach these goals by the year 2020. This plan will be comprehensive and will have specific benchmarks we can use to measure our progress. This council will work with the Governor, the legislature, the various institutions and the people of Kentucky to insure that everyone cooperates and carries their share of the load. This council won't control our universities. It won't be a super board. It won't hire or fire the presidents of our institutions. It will help us stay on course to reach our goals.

This isn't a program laced with new bureaucracies, or requiring more administration. This proposal is designed to eliminate red tape, provide flexibility, responsiveness, and insure the efficient use of the taxpayer dollar. We've designed a new vehicle to deliver educational services to Kentuckians in a new century.

This major change is supported by seven of the eight state supported universities in Kentucky and all eight of the student body presidents of our universities, including Ms Melanie Cruz, the president of the University of Kentucky student body. This proposal has the support of all nineteen independent colleges and universities in Kentucky; the Prichard Committee on Academic Excellence; the Kentucky Advocates for Higher Education and almost every major newspaper in the state including the Kentucky Kernel, the University of Kentucky student newspaper. We're also supported by newspapers in the community college towns of Ashland, Harlan and Owensboro. Business organizations like the State Chamber of Commerce, dozens of local chambers and local economic development organizations know these changes must be made. Kentucky's major employers like UPS, Toyota, and G.E. use the product of our system and they can compare our results to those in other states . They support these improvements. Other organizations like the Kentucky Education Association; the NAACP; the Louisville Urban League; the Taxpayers Action Group; the Kentucky League of Cities; the Kentucky County Judges' Association; the Kentucky Association of Counties and many labor organizations are for these progressive changes and the list goes on and on.

This is a vital step we must take if we're going to move this state forward.

Almost everybody in Kentucky who's taken the time to study our proposal has concluded it's needed. Almost everybody except the administration of the University of Kentucky.

Let me remind you that UK is my alma mater, the institution where I received the education which allowed me to become the person I am, the institution to which I entrusted the education of two of my children, the institution to which I've been a consistent contributor over the past twenty or so years, the school I'm as devoted to as any other Kentuckian. I'm determined to make UK a great center of academic excellence.

There's one part of our proposal that's caused a lot of debate and, fueled primarily by misinformation, has created divisiveness and opposition. The issue of creating a united and independent community based postsecondary education system is, in the big picture, a detail, but a very important, in fact vital detail.

This part of the proposal is about like the left rear wheel of this new vehicle we've designed to take us into the next century. In the big picture, the left rear wheel is a detail, but the vehicle won't work without its left rear wheel.

Every expert I've talked to, all the information I've read and my good common sense tells me that if we're going to have an efficient, responsive, comprehensive system of community based educational services, then the institutions we depend on to provide those services must be, as a minimum, united and independent enough to pursue their own destiny. They can't compete with each other and they can't be dominated by a huge bureaucracy with a different mission.

That's exactly what we have right now. Kentucky Tech is a part of state government and it's hide-bound by bureaucratic red tape. The community college system is administered by and dominated by the huge bureaucracy of the University of Kentucky.

KY Tech and the Community Colleges are generally located very close together, most of the time in the same town and in some cases, on the same campus. In many ways, they compete against each other and they're definitely not free to pursue their own agenda.

If we're going to change things for the better, sometimes we have to think outside of the box, think the unthinkable thoughts. Some people in Kentucky believe I've not only thought the unthinkable thought, I've been brash enough to utter it out loud. I suggested a proposal to separate the community colleges from the University of Kentucky and put them under an independent board along with Kentucky Tech. This proposal was not to merge the two systems but rather to place them under a common source of authority to make them cooperate and stop their wasteful competition. After all, they are spending your tax dollars and it's my responsibility to see that your taxes aren't wasted.

I'm convinced that this separation would allow UK to put more focus on its efforts to become a great research university, something we must have, if we're going to be the great state that I envision. But my proposal hasn't had a fair discussion based on the merits of the case.

Some people believe that we're going to close the community colleges, or turn them into high school vocational schools or lower their academic standards, or raise tuition or cause students to lose scholarships or cause the colleges to lose their accreditation and a lot of other false impressions. None of these allegations is true but I realize how much pressure this issue has put on the legislature. I understand the fear this misinformation has placed in the minds of students and their parents. I'm not insensitive to you or the supporters of UK and the community colleges.

I repeat again that my proposal will have increased funding for community colleges by 26 percent in my first two years in office.

After eight years of a decline in relative funding and a dramatic increase in enrollment, our Community Colleges were in crisis when I became Governor. I have and will continue to insure that they're adequately funded.

I've listened at community college campuses, I've met with UK faculty and administrators, I've consulted with you, the elected representatives of our people, and I've talked with the students who want a good education, and the opportunity to find a good job, and create a better life for themselves in Kentucky.

As a result of these discussions, I've modified my proposal , without compromising my principles, and I'm now suggesting the Community Colleges maintain an affiliation with the University of Kentucky, shifting administrative responsibility to the new Board of Regents of the Kentucky Community and Technical College System. Kentucky Tech in its entirety will also be transferred to the new board which will have responsibility for budget, personnel and other administrative functions of the community colleges. This will insure a structurally joined system that will have the independence and flexibility necessary to be responsive to regional workforce needs.

Degrees which have been previously authorized by the University of Kentucky Board of Trustees will continue to be issued in the name of the University of Kentucky Community College System. UK will continue to provide administrative support to the Community College System. UK will have academic oversight to insure the quality of programs affiliated with its name. UK will nominate candidates to fill four positions on the new Kentucky Community and Technical College System Board and students at the Community Colleges will retain access to UK student activities. The students are and will continue to be the central focus of our concern. I realize that many of them have been misled. Many have no outside point of reference for comparison of our proposal. I make one promise to the students of Kentucky Tech and the community colleges. One year after this program takes effect, your schools will be better funded, more responsive and providing you with a high quality, more varied education with more access in Kentucky than ever before.

The same promise is made to the staff and faculty of Kentucky Tech and the community colleges. The faculty and staff are our greatest asset in community based education. All existing rights of these employees will be protected and benefits will be expanded. Not only will the additional funding allow the colleges to pay fair wages, the tuition free educational advancement program of six hours a year for community college faculty at the University of Kentucky will be extended to the faculty of Kentucky Tech and the courses can be taken at any of our eight state supported universities.

A major focus of this program is to increase the responsiveness of our community based educational system. Removing Kentucky Tech from state government is an important part of this effort. Some people have accused me of wanting to increase the Governor's political power. The fact is, this proposal will move two thousand state employees of Kentucky Tech from the Governor's direct line of control into an autonomous body, one over which the Governor will have no administrative control. This proposal will reduce the Governor's political power by two thousand state employees.

Our proposal will give real authority to the Community College Advisory Boards . These boards would be renamed boards of directors. They will participate in the search for new presidents, should openings occur, and will make the final recommendation of a president from a list of three candidates suggested by the chancellor of the community college system. The money appropriated to the Community Colleges will be allocated to each college fairly and the local board will administer the budget of the college and keep any money they save to be used as they see fit. These community colleges will use this increased independence to develop their own strategic plans so they can better serve their students and the businesses of their service regions.

Again, the objective of these changes is to enable these colleges to respond to the needs of the communities they serve. Our local communities must have a voice in determining their own destiny!

This same self governing authority will be extended to the KY Tech institutions as their administrative structure is changed to become more like a postsecondary educational institution and as they shake off the bureaucratic constraints imposed by state government.

Various elements of this proposal have been suggested to us by members of the general assembly, Democrat and Republican. I want to thank the Republican Party for, at least up to now, keeping this issue non-partisan. The education of our children is too important to be used as a pawn in the struggle of partisan politics.

I believe this proposal satisfies the basic concerns of the students and the communities in which the community colleges are located. The community colleges will retain a meaningful affiliation with the University of Kentucky, which will insure the maintenance of University of Kentucky quality in the academic courses, allow the students to earn the same University of Kentucky Community College degree they now earn, and maintain a University of Kentucky presence in their communities.

I believe this proposal will substantially increase the efficiency and responsiveness of the Community Colleges and KY Tech and will insure the best expenditure of the taxpayer's dollar.

I've reached out to satisfy the concerns of those who care about the University of Kentucky and the community colleges.

It now becomes the responsibility of this General Assembly to do what you know is right.

This is a comprehensive proposal, a progressive move forward which has been applauded by just about every group interested in improving postsecondary education in Kentucky. It's not that complicated.

It's not the solution to all our education problems. In fact, it's just the first installment of a long-term investment to regain the ground we lost during 100 years of neglect of higher education in Kentucky.

I want to make one point very clear, I'm not just asking the legislature of Kentucky to pass a law, I'm asking the people of Kentucky to make a long term commitment, a commitment to excellence, a commitment to access for every Kentuckian, a commitment to our children and grandchildren.

This is a time for leadership, a time for you to study the facts, ignore the false and misleading rhetoric, make a judgment on behalf of the people who elected you to do what's best for them in the long run.

We're the leaders of Kentucky. If we're to have the Kentucky our people envision then we must have leaders who can think the unthinkable thoughts, dream the impossible dream, and have vision which reaches far beyond the horizon.

If we can be those leaders, then Kentucky can be the state that can hold the same kind of promise for our descendants that it held for our ancestors 200 years ago.

I know how hard it is for some of you, I've received the same kind of uninformed calls and letters as you. But I came here to make a difference, not just to hold an office. This time will not come our way again. The future of Kentucky is in our hands.

Good night, God bless you and God bless Kentucky.

Representative Stumbo moved to dissolve the Joint Session. Agreed.

Motions, Petitions and Communications (Cont.)

Speaker Richards resumed the Chair.

Announcements

The following meetings were announced:

Personal Service Contracts, May 13, upon adjournment.

Minority Caucus, Room 131, upon adjournment.

Education, Room 149, 1:30 p.m., today.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., May 13, 1997.

On the roll call the vote was **Yeas 83**--R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Brown, Bruce, Burch, Callahan, Cave, L. Clark, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Vincent, Walton, Wayne, Wilkey, Worthington, Yonts, Zimmerman. **Nays -- 0**. The motion to adjourn was adopted.

TUESDAY, MAY, 13, 1997

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Robert Henderson, Agape Christian Tabernacle, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Reinhardt.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 12, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 1**, by Representative Yonts:

On page 116, line 13 by adding "***(a)***" after "***(11)***" and before the word "Review" by inserting:

"***Except as provided in paragraph (b) of this subsection,***"; and

On page 116, line 21 by deleting the semi-colon "***;***" after "***System***" and inserting a period "***.***" in lieu thereof; and

On page 116, after line 21 by inserting the following:

"***(b) Any county that has an organized group to establish a community college satellite as a branch of an existing community college, and has substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, is authorized to begin construction of the satellite on or after January 1, 1998;***".

Introduction of Bills and Resolutions

HJR 6, by Representative Rasche: A JOINT RESOLUTION directing the Council on Higher Education or its successor to review the policies of higher education institutions for identification and placement of students in remedial and developmental courses and make a recommendation for establishing a statewide standard.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Appropriations and Revenue: **HB 2**

Calendar

HB 1 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Bruce moved that the rules be suspended to introduce a guest and allow floor privileges. Agreed.

Representative Murgatroyd moved that the rules be suspended to allow floor privileges to guests and to act upon **HR 4**. Agreed.

Representative Murgatroyd moved the adoption of the following **HR 4**:

HR 4, A RESOLUTION honoring the Northern Kentucky University basketball team that is visiting us today.

WHEREAS, when people talk basketball in Kentucky, they often routinely turn their attention to Lexington; and

WHEREAS, many people do not realize Northern Kentucky University advanced to the NCAA Division II national championship game twice during the past two seasons; and

WHEREAS, Northern Kentucky University finished 30-5 this past season and won the Great Lakes Valley Conference championship for a second straight season; and

WHEREAS, as a result, Northern Kentucky University earned a berth in the Division II Elite Eight for the second straight year and traveled to Louisville for a national championship; and

WHEREAS, though Northern Kentucky University lost a heartbreaker to Cal State-Bakersfield, the Northern Kentucky Norsemen had a tremendous impact on the entire Northern Kentucky community for the past three years; and

WHEREAS, sellout crowds pack NKU's on-campus arena, Regents Hall, virtually every night to see the Norse in action, and the Cincinnati-based media all have jumped on the Northern Kentucky University bandwagon as a result of the success; and

WHEREAS, just like Northern Kentucky University campus itself, the basketball program continues to grow and has become a force in the region, state, and nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body proudly recognizes Ken Shields, who has been coach at Northern Kentucky University since 1988.

Section 2. The members of the House of Representatives take great pleasure in admiring Ken Shields having fulfilled his promises by shaving his head in 1995 and piercing his ear in 1996 after daring his team to win.

Section 3. The House of Representatives proudly recognizes Northern Kentucky University's accumulated honors from 1993 to 1997; 92 wins-30 losses, .750 winning percentage, National Division II Tip-off Classic winner, two GLVC Conference championships, three NCAA regional tournament appearances, two NCAA regional championship titles, two NCAA Elite Eight championship appearances, and two NCAA Elite Eight tournament finalists.

Section 4. Last but not least, the members of the House of Representatives congratulate each member of the Northern Kentucky basketball team.

Section 5. The Clerk of the House of Representatives is directed to send four copies of this Resolution for duplication to Coach Ken Shields, Northern Kentucky University, Kentucky.

There being no objection **HR 4** was adopted.

Roll call to show co-sponsors of **HR 4** is as follows: J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Marzian, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman.

Representative Crimm moved that the rules be suspended to allow floor privileges to guests. Agreed.

Representative Riner moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 7, by Representative Riner: A RESOLUTION urging the United States not to renew the Most Favored Nation trading status of the Communist Republic of China until such time as that nation ceases its campaign of brutal repression and persecution of those professing faith in Jesus Christ.

Representative Riner moved the adoption of the following **HR 7**:

HR 7, A RESOLUTION urging the United States not to renew the Most Favored Nation trading status of the Communist Republic of China until such time as that nation ceases its campaign of brutal repression and persecution of those professing faith in Jesus Christ.

WHEREAS, the sanctity of religious belief and expression is a God-given right respected and honored by the governments of all free nations; and

WHEREAS, as a member of the United Nations, China must abide by and uphold the United Nations' charter to guarantee freedom of religion for all citizens; and

WHEREAS, the Universal Declaration of Human Rights of the United Nations which the United States and China signed, guarantees that human beings shall enjoy freedom of speech and belief and freedom from fear and want as the highest aspiration of the common people; and

WHEREAS, in accordance with Section 402 (Jackson-Vanik Amendment) of the 1974 Trade Act, China's emigration and human rights record is to be studied annually by the administration, as well as both houses of Congress to determine whether that country is eligible to receive Most Favored Nation trading status for an additional year; and

WHEREAS, since 1949, the Communist government of The Peoples Republic of China has consistently waged a campaign of terror, persecution, and murder against its citizens who profess faith in Jesus Christ and openly practice their faith; and

WHEREAS, Asia Watch has reported that China's overall human rights record worsened in 1993; and

WHEREAS, on January 31, 1994, Premier Li Peng signed Decree Number 144 that makes all house church meetings illegal, thus giving "legal justification" to local and provincial authorities to jail, fine, and confiscate the possessions of citizens and foreigners involved in any "illegal" religious activities; and

WHEREAS, Premier Ping also signed Decree Number 145 which punishes foreigners in the same manner as Chinese citizens for religious activities; and

WHEREAS, on February 18, 1994, the New York Times reported that a delegation of American Christians who came to China for fellowship and prayer with friends were detained and held incommunicado for four days; and

WHEREAS, the money and personal belongings of American citizens were confiscated by authorities who justified their actions by saying they were enforcing the new decrees which place a ban on foreign religious activities in China; and

WHEREAS, at the same time Premier Peng was signing the decrees and U.S. Treasury Secretary Lloyd Bentsen was in Beijing to discuss U.S.-Sino trade relations, another US delegation, including Congressman Chris Smith of New Jersey, was in China attending a Mass celebrated by 62-year-old Bishop Su Zhimin (Bishop Su is an underground priest who spent fifteen years in prison where he was severely tortured for his faith); and

WHEREAS, within days following the Smith\CSI delegation visit, Chinese authorities intensified their crackdown against Christians in the Anhui Province who were mentioned by the delegation as victims of obvious government oppression; and

WHEREAS, Bishop Su of the banned Roman Catholic Church in Anhui Province was rearrested and held for nine days where he was interrogated about his knowledge of the underground Catholic Church in China; and

WHEREAS, in addition to these hideous acts, there is an intensive and brutal ongoing campaign by the Chinese government to persecute and imprison Chinese Christian leaders including:

1. Zhu Bayou is the priest of Nanyang Diocese, Henan Province, who was arrested in the early 1980's and sentenced to 10 years for leading Roman Catholics on a pilgrimage to Sheshan. He was released on parole and is now restricted to the village of Jingang, Henan.
2. Huo Binxhang is Vicar General of Boading, Hebei, and Bishop Fan's deputy at the time of his arrest. Binxhang was most recently arrested and imprisoned in 1981 and sentenced in 1983 to 10 years of "reform through labor."
3. Bartholomew Yu Chengdi is thc Bishop of Hanxhong Diocese in the Shaanxi Province who was arrested in late 1989 or early 1990. Bishop Chengdi was imprisoned in Xian until July 1990 when he was released; however, he is under strict government travel restrictions.
4. Yu Chengxin is priest of Hanxhong Diocese, Shaanxi Province, and brother to Bishop Bartholomew Yu Chengdi. He was arrested in late 1989 or early 1990 and imprisoned in Xian City until July, 1990. Chengxin remains under travel restrictions.
5. Yan Chong-Ming is a Roman Catholic priest who was arrested on September 7, 1993, at his home and his status is unknown.
6. Yan Chong-Zhao is the priest of Handan Diocese, Hebei Province, who was arrested in September, 1993, for refusing to renounce his ties to the Vatican and is detained in Guangping county.
7. Fan Da-Dou is priest of Beijing Diocese who has been under house arrest for several years. He is prohibited from administering the sacraments.
8. Wang Danian is a Roman Catholic priest arrested in the summer of 1992 in Suzhou, Jiangsu.
9. Joseph Jin Dechen is Vicar General of Nanyang Diocese, Henan Province who was arrested December 18, 1981, reportedly for opposition to abortion and birth control. Sentenced on July 15, 1982, to 15 years in prison and 5 years of subsequent deprivation of rights, Dechen was reportedly released on parole from the Third Provincial Prison in Yuxian, Henan Province, on May 21, 1992. He is confined to his home village of Jinjiajiang and remains under restrictions of movement and association.
10. Su De-Qien is priest of Tianjin Diocese, Hebei. He is required to report to the Public Security Bureau once a month and has been prevented from administering the sacraments since Christmas, 1993.
11. Han Dingxiang is a priest in Handan Diocese, Hebei Province, who was arrested December 26, 1990, and is being forcibly detained in an indoctrination camp in Handan with at least twenty other Roman Catholics including An Shi'en. He was previously imprisoned between 1960 and 1979 for religious activities and beliefs and detained again in 1989 while officiating at a Mass.

12. Johannes Han Dingxiang is Bishop of Yong Nian in Hebei. He was arrested in December, 1993, and still has not been released.

13. Lu Dong-Liang was arrested in Hebei on Easter Sunday, 1994, while celebrating Holy Mass. During his arrest, 11 other Roman Catholics, 5 men and 6 women, were also arrested.

14. Peter Ilu Duoer was arrested by Public Security Bureau officers at Liangzhuang Village, Xushui County, on December 14, 1990, and is being held without trial.

15. Cosmas Shi Enxiang is the Auxiliary Bishop of Yixian, Hebei, who was reportedly arrested in late 1990. Bishop Enxiang's condition and status are unknown.

16. Li Fangchun is priest of Guide Diocese, Henan Province, who was arrested in the early 1980's and is reportedly still imprisoned.

17. Gao Fangzhan is priest of Yixian Diocese, Hebei Province, who was arrested in May, 1991, outside Shizhu Village in Dingxing County. He is being held without trial.

18. Joseph Guo Fude is a Roman Catholic priest whose most recent arrest and imprisonment began in the spring of 1982. In 1986, he was interned in a labor camp in southern Shandong. According to unconfirmed reports, Fude has been transferred to house arrest and is under strict surveillance.

19. Lu Gen-You is a 30-year-old Roman Catholic priest who was arrested on May 23, 1994, at Shao Jia Zhuang, Wan Xian, Hebei, after he administered sacrament to an elder priest who had a stroke.

20. Peter Liu Guandong is the Roman Catholic Bishop of Yixian Diocese, Hebei Province, who was arrested November 26, 1989, and sentenced May 21, 1990, to three years "reform through labor" at a labor farm near Tangshan, Hebei Province.

21. Pei Guojun is priest of Yixian Diocese, Hebei Province, who was arrested and imprisoned in late 1989 or early 1990 in connection with an underground episcopal conference in Shaanxi Province.

22. Vincent Qin Guo-Liang, S.J. is a 59-year-old Roman Catholic priest who was arrested in early May, 1994. Previously held for 13 years in prison because he refused to renounce the Pope, his whereabouts are unknown. He was secretly ordained a priest in 1986 and was transferred to a labor camp as an "employee detainee" for another 13 years after he was released from prison.

23. Xu Guoxin is a Roman Catholic priest of Langfang Diocese, Hebei Province, who was arrested in 1991 and sentenced to three years "reform through labor."

24. Huo Guoyang is a Roman Catholic Bishop in Chongqing, Sichuan Province, who was arrested January, 1990, for participation in an underground episcopal conference and detained until early 1991. He is now under police surveillance in Chongqing City, Sichuan.

25. Liao Haiqing is the 63-year-old Roman Catholic priest of Fuzhou, Jiangxi Province who was arrested while celebrating Mass on August 16, 1992. Chinese authorities reported that he had been released in March, 1993, but this has not been independently confirmed.

26. Liu Heping is a 28-year-old Roman Catholic priest whose most recent arrest occurred on December 13, 1991, at his home in Shizhu Village, Dingxing County, Hebei Province.

27. Fu Hexhou is a Roman Catholic priest who was arrested and imprisoned on November 19, 1981. He has reportedly been transferred to house arrest and is under strict surveillance.

28. Liao Hiaqing is priest of Jiangxi Province who was arrested in November, 1981. As of the last report in 1988, he was still interned in Prison No. 4 in Nanchang, Capital of Jiangxi Province.

29. Shi Hongzhen is Auxiliary Bishop of Tianjin, Hebei Province, who beginning in November, 1993, had his activities severely restricted.

30. Lu Jenun is Roman Catholic priest in Baodin Diocese, Hebei Province, who was arrested on February 6, 1990. There have been no reports on his condition or whereabouts since his arrest.

31. Lin Jiale is a Roman Catholic priest who is reportedly imprisoned in Fuzhou, Fujian Province.

32. Peter Chen Jianzhang was the Roman Catholic Bishop of Baoding Diocese after Bishop Fan's resignation in mid-1990. Currently confined to a wheelchair, Bishop Jianzhang disappeared about the same time as Bishop Chunjie and may have been arrested for the same reason.

33. Lucas Li Jingfeng is Bishop of Fengxiang, Shaanxi Province, who was placed under house arrest in April, 1992, when he accepted the authorities' "invitation to study". Jingfeng is reported to be in very poor health and is restricted to his church in Fengxiang.

34. Wang Jiansheng is a Roman Catholic priest who was arrested on May 19, 1991, and sentenced to three years of "re-education through labor." He was imprisoned in Xuanhua Re-education Through Labor Center in Hebei Province. Chinese authorities reported Jiansheng was released in March, 1993, but as of October, 1993, he had

not returned home.

35. Li Jian-Jin is a 28-year-old Roman Catholic priest from Han Dan in Hebei who was arrested while celebrating Holy Mass in the home of a lay Catholic. Approximately 10 fully armed government security police beat him before taking him away in handcuffs.

36. Wei Jing-Yi is a 36-year-old Roman Catholic priest and is the Secretary of the underground Bishop's conference. Arrested with Bishop Su, he is being held in Ging Yuan Xian where he is handcuffed and his feet are chained with weights day and night.

37. Anthony Zhang Kangyi is a Roman Catholic priest in Sanyuan Diocese near Xian City who has been imprisoned several times for a total of 30 years between 1949 and the present. Released on June 6, 1990, due to ill health, Kangyi remains under travel restrictions.

38. Zhang Li is a Roman Catholic priest from Zhangjiakou City, Hebei Province, who was arrested in November, 1993, along with another priest and sentenced to three years "re-education through labor" at a detention center in Zhangjiakou City.

39. Philip Yang Libo is the Roman Catholic Bishop of Lanzhou, Gansu Province, who was arrested in late 1989 or early 1990 and is reported to be serving a three year prison sentence.

40. Dong Linzhong is a deacon in Dongdazhao Village, Baoding, Hebei Province, who was arrested on December 21, 1992, with Zhou Zhenkun.

41. Jiang Liren is the Roman Catholic Bishop of Hohhot, Inner Mongolia, who was arrested in late 1989. Bishop Liren was reported to have been released from prison in April, 1990, and placed under house arrest.

42. Casimir Wang Milu is the Roman Catholic Bishop of Tianshui Diocese, Gansu Province who was arrested in April, 1984. Bishop Milu was sentenced in 1985 to ten years of "reform through labor" at a labor camp in Pingliang, Gansu, and four years forfeiture of political rights.

43. Guo Qenzhi is the Roman Catholic Bishop of Harbin, Heilongjiang Province, who most recently was arrested in 1989 and remains under strict police surveillance and house arrest in his home village of Qiqighr. Bishop Qenzhi was also imprisoned from 1954 to 1964, and from 1966 to 1979.

44. Pei Ronggui is a Trappist priest in Youtong Village, Hebei Province, who was arrested on September 3, 1989, in Beijing. According to unconfirmed reports, Ronggui has been sentenced to six years hard labor for opposing government police who went on a bloody rampage against the 1500 Roman Catholics in his village.

45. Joseph Chen Rongkui is a Roman Catholic priest who was arrested on December 14, 1990, at the Dingxian train station in Hebei Province and is being held without trial.

46. John Baptist Wang Ruohan is a priest from Tianshui Diocese in Gansu Province who was arrested in late 1989 with his brother Wang Ruohan for participation in an underground episcopal conference. He was sentenced to one year of "re-education through labor" and remains under travel restrictions.

47. John Wang Ruowang is a Roman Catholic priest from the Tianshui Diocese, Gansu Province, who disappeared on December 8, 1991, while caring for dying Bishop Li Zhenrong.

48. Zhang Shentang is priest of Nanyang Diocese, Henan Province, who was arrested in the early 1980's and sentenced to a 17 year prison term.

49. An Shi'en is the Roman Catholic Vicar General of Daming Diocese in Hebei Province. He was arrested in 1990 and detained without charge or trial in an indoctrination camp in Handan. Released in 1992, his whereabouts are unknown.

50.-52. Guo (given name not known), Guo Qiushan, and Guo Shichun are Roman Catholic priests of Fu'an, Fujian Province, who were arrested on July 27, 1990, for violating government religious policy. Released in August 1991 for health reasons, all three priests remain under house arrest.

53. Xie Shiguang is the Roman Catholic Bishop of Xiapu, Fujian, who was arrested on July 27, 1990 during a meeting on church affairs at Luojiang Church in Fu'an City.

54. Paul Liu Shimin is a Roman Catholic priest who was arrested on December 14, 1990 in Xiefangying, Xushui County, Hebei Province, and is being held without trial.

55. Xiao Shixiang is a 58-year-old Catholic priest of Yixian Diocese, Hebei Province, who was arrested December 12, 1991, for leading a religious retreat.

56. Liu Shizhong is a Roman Catholic priest and is reportedly imprisoned in Fuzhou, Fujian.

57. Vincent Huang Shoucheng is the Roman Catholic Bishop of Fu'an, Fujian, who was arrested with Bishop Shiguang and four deacons. The deacons were released but Bishop Shoucheng remains in detention.

58. John Yang Shudao is the Roman Catholic Bishop of Fuzhou, Fujian, Province, whose most recent arrest occurred in Liushan village, Fujian Province, on February 28, 1988. Bishop Shudao remains imprisoned.

59. Paul Liu Shuhe is the 69-year-old Second Bishop of Yixian, Hebei Province. Bishop Shuhe was arrested and imprisoned in Beijing on October 30, 1988 and sentenced to a three year sentence in a "re-education through labor" prison. Because of ill health, Bishop Shuhe's sentence was briefly commuted; however, he was rearrested in 1990 with Bishop Chunjie.

60. Ma Shunbao is a deacon arrested November 6, 1991 in Hebei Province who is being detained without trial.

61. Li Side is the Roman Catholic Bishop of Tianjin who was released from jail about three years ago; however, he was shortly thereafter confined to a small village on top of a hill. Bishop Side is under police surveillance and is forbidden to come down from the hill to his diocese to perform ministry.

62. Chu Tai was arrested in November, 1993, while celebrating Mass. He is serving a prison sentence in Zhangjiakuo, Heibei Province.

63. Wang Tongshang is a deacon and community leader in Baoding Diocese, Hebei Province, who was arrested December 23, 1990, and sentenced to three years of "re-education through labor". He is serving a prison term in Chengde Reeducation Through Labor Center in Hebei. Chinese authorities reported in March, 1993, that he had been released, but this has not been independently confirmed.

64. Shi Wande is a Roman Catholic priest from Baoding in Hebei province. He was arrested in December, 1989, and there are no current reports of his condition.

65. Song Weili is the Roman Catholic Bishop of Langfang Diocese, Hebei Province, who was arrested in late 1990 or early 1991. Bishop Weili's condition and whereabouts are unknown.

66. Mark Yuan Wenzai is the Roman Catholic Bishop of Nantong, Jiangsu Province, who, after a period of detention, was placed under custody of the local CPA.

67. Guo Wenzhi is the Roman Catholic Bishop of Harbin, Heilongjiang Province, whose most recent arrest was December 14, 1989, in connection with an underground episcopal conference. He was released in March, 1990, to his home village of Qiqihar but is forbidden to travel and is under strict police surveillance.

68. Zhang Xiaocheng is a Roman Catholic Priest of Tianshui Diocese, Gansu Province, who was arrested between late 1989 and early 1990 and reportedly remains imprisoned.

69. Ji Xiaoshang is a Roman Catholic priest who was arrested in June, 1992, in connection with the funeral of Bishop Fan Xueyan.

70.-73. Xu, Liu Guangpin, Zhu Ruci, and Zou Xijin are Roman Catholic priests of Fu'an, Fujian Province, who were arrested July 27, 1990, at Luojiang Church in Fu'an for violating government religious policy.

74. Sun Ximan is a Roman Catholic priest of Tianshui Diocese, Gansu Province, who was arrested in late 1989 or early 1990 and remains imprisoned. His arrest may have taken place in conjunction with that of Bishop Mathias Lu Zhengsheng.

75. Peter Cui Xingang is the Roman Catholic parish priest at Donglu Village, Qingyuan County, Hebei Province, who was arrested July 28, 1991 and held without trial.

76. Li Xinsan is a Roman Catholic priest of Anguo Diocese, Hebei Province, who was arrested in late 1990 or early 1991 and sentenced to three years "reform through labor." He was detained in a labor camp in Tangshan, Hebei. Chinese authorities reported in March, 1993, that he had been released; however, he had not returned home as of October, 1993.

77. Liang Xi-Sheng is the Roman Catholic Bishop of the Diocese of Kaifeng in Henan Province who was arrested on March 18, 1994. Details of Bishop Xi-Sheng's arrest and location of his detention are unknown at this time.

78.-79. Mao Lehua and Guo Xijian are Roman Catholic priests of Fuan, Fujian Province, who were arrested December 16, 1993, with four nuns and three deacons as they were celebrating Mass in a private house.

80. John Baptist Liang Xishing is also a Roman Catholic Bishop in the Kaifeng Diocese in Henan Province, who was arrested in October, 1990, and reports say he will soon be sentenced.

81. Gao Yihua is a Roman Catholic priest of Changle County, Fujian Province, who was arrested on September 14, 1988.

82. Francis Wang Yijun is the 74 year old Roman Catholic Vicar General of Wenzhou Diocese, Zhejiang Province, who was arrested May 19, 1982, and sentenced to eight years imprisonment. Immediately upon his release in 1990, he was sentenced to an additional three years "reform through labor" for "stubbornness" and "refusing to repent." He was released from prison May 21, 1992, but remains under restrictions of movement and association.

83. Chen Yingkui is a Roman Catholic priest of Yixian Diocese, Hebei Province, who was arrested in 1991 and sentenced to three years "reeducation through labor." He is reported to be imprisoned in Gaoyang County, Hebei.

84. Wang Yiqi is a Roman Catholic priest of Fujian Province who was reported arrested in Liushan Village, Fujian Province, on February 28, 1988.

85. Peng Youngbird is a Roman Catholic priest in Changle County, Fujian Province, who was arrested with Gao Yihua on September 14, 1988.

86. Fan Yufei is a Roman Catholic Bishop in Zhouzhi, Shaanxi Province, who was arrested around Easter, 1992, while celebrating Mass. He was transferred in September, 1992, to a form of house arrest.

87. Si Zhemin is the recently named Roman Catholic Vicar General of Baoding Diocese, Hebei Province, who was arrested on December 17, 1989, and sentenced with Bishop Peter Liu Guandong on May 21, 1990 to three years "reform through labor" at a labor farm near Tangshan, Hebei Province. For his role in helping to establish an independent episcopal conference in Shaanxi Province in November, 1989, he was charged with having "taken part in illegal activities."

88. Zhou Zhenkun is the Roman Catholic priest of Dongdazhao Village, Baoding, Hebei Province, who was arrested December 21, 1992, by the Public Security Bureau with Deacon Dong Linzhong during a pre-Christmas raid on the Baoding area.

89. Pei Zhenping is a Roman Catholic priest in Youtong Village, Hebei Province, who was arrested October 21, 1989, and imprisoned. Chinese authorities reported in March, 1993, that he had been released, but Zhenping has not been seen at home as of October, 1993.

90. Paul Li Zhenrong is a member of the Society of Jesus and is the Roman Catholic Bishop of Xianxian diocese, Hebei Province. Bishop Zhenrong was imprisoned between 1957 and 1980. He was arrested again in December, 1989, and transferred to house arrest in March, 1990, where he is under strict police surveillance and is prohibited from traveling.

91. Mathias Lu Zhensheng is the Roman Catholic Bishop of Tianshui in Gansu Province, who was arrested in December, 1989, and imprisoned until April, 1990. According to an unconfirmed report, Bishop Zhensheng was released and placed under house arrest because of failing health.

92. Julius Jia Zhiguo is the Roman Catholic Bishop of Zhengding, Hebei Province, who was arrested April 7, 1989, and transferred to house arrest on September 11, 1989. Bishop Zhiguo is in his native village of Wuqui and must remain under house arrest for three years.

93. Ma Zhiyuan was arrested with four Roman Catholic seminarians on December 13, 1991, at Houzhuang, Xushui County, Hebei Province.

94. Liu Jin Zhong was arrested on February 26, 1994, while celebrating Holy Mass. He is now detained in Gu An Xian.

95. Joseph Fan Zhongliang is a 73-year-old Roman Catholic Bishop who was placed under house arrest in Shanghai in 1991. Since May, 1993, Bishop Zhongliang has been forbidden to leave Shanghai and is kept under close police surveillance.

96. Li Zhongpei is a Roman Catholic priest who was arrested in December, 1990, and sentenced to three years of "reeducation through labor" at the Tangshan Reeducation Through Labor Center in Hebei Province. Chinese authorities reported in March, 1993, that he had been released, but as of July, 1993, he had not been seen at home.

97. Li Tian An is the most senior unregistered house church leader in Shanghai who reportedly went into hiding in early January, 1994, after local PSB officials ordered him to report his house church activities to them on a regular basis.

98. Wang Baoquan is a 67-year-old Christian elder from Chengguan Township, Lushan County who continues to be persecuted by local authorities.

99. Xu Birui is the 83-year-old mother of Pan Yiyuan who was interrogated February 2, 1993, at the time of her son's arrest. She is reportedly under house arrest and interrogated daily about religious activities.

100. Mr. Dai is a Bible distributor from Hubei Province who was arrested in June 1991.

101. Zhao Donghai is a house church leader from Henan Province who was sentenced to 13 years imprisonment for counter-revolutionary activities.

102. Xu Fang is a house church Christian from Ankang County, Shaanxi Province, who was arrested September, 1993, with about 24 other Christians by police seeking to discover who had provided information to the West about the brutal March, 1993, attack on Shaanxi Christians, including Mai Lanping who died as a result of torture.

103. Liu Gang is thirty-one years old and has been held in Lingyuan prison since 1991. Subjected to physical abuse, he is suffering from various illnesses.

104. Dai Guillang is a 45-year-old house church preacher from Yuefang township, Mengcheng County, Northern Anhui Province who continues to be persecuted by authorities.

105. Xue Guiwen is a Christian evangelical from Liuzhuang Village, Xinhua Brigade, Zhangdian Commune, Lushan County who is persecuted by authorities for being a Christian.

106. Xu Guoxing is a Shanghai house church leader who was arrested November 6, 1989, and sentenced to three years "reform through labor" in Dafeng, Jiangsu.

107. Zhang Guoyan is a layman from Baoding, Hebei Province, who was sentenced in 1991 to three years of "reeducation through labor" for refusing to join CPA. Chinese authorities reported in March, 1993, that he had been released, but as of October, 1993, he had not returned home.

108. Li Haochen was arrested in 1993 and sentenced to a year of "reform through labor" for holding unauthorized meetings with other Christians.

109. Zheng Jikuo is the third son of Zheng Yunsu who was arrested in June, 1992, in a raid on the Jesus Family religious community and sentenced to nine years imprisonment. Jiping is being held in an unknown location.

110. Wang Jingjing is a layman of Fujian Province who was arrested in February, 1988, in Liushan Village. He has reportedly been released but this has not been independently confirmed.

111. Zheng Jiping is the eldest son of Zheng Yunsu who was arrested in Zhang Jiuzhong: Jiping was arrested in 1993 and sentenced to two years of "reform through labor" for holding unauthorized meetings with other Christians.

112. Wang Juntao is a persecuted Christian who was recently transferred from Yanqing Prison to a military hospital. Wang is reported to be suffering from chronic hepatitis B, coronary heart disease, and diabetes.

113. Han Kangrui is a member of an outlawed underground church from Fuqing City, Fujian, who is reportedly now detained in Longtian Town Detention Center.

114. Dai Lanmei is a 27-year-old female house church Christian from Yuefang township, Mengcheng County, Northern Anhui Province. She was arrested August 25, 1993, with Ge Xinlian, age 27, Guo Mengshan, age 41, and Dai Guiliang, age 45, and sentenced without trial to three years "reform through labor" by the Fuyang Prefectural Labor Reeducation Administrative Committee. She is reportedly detained in Xuancheng Labor Camp in Anhui Province for "listening to a Hong Kong gospel radio broadcast" and "accepting Bibles from overseas."

115.-116. Liu Wenjie and Zheng Lanyun are house church preachers who were accused of conducting "New Believers' Edification" classes for five days in a rural area of Dafeng. Their sentences are unknown; however, after detention in Mengcheng County prison, they were reportedly detained in Xuancheng Labor Camp, Anhui Province.

117. Zhu Mei (or Sha Zhumei) is a 75-year-old member of an independent Christian church who was arrested June 3, 1987, and reportedly beaten by police. Tried in secret in November 1987, he was convicted of "harboring a counter-revolutionary element." Released on parole April 3, 1992, for medical reasons stemming from torture in prison, Mei remains under travel restrictions.

118. Gou Mengshan was arrested in 1993 for unauthorized meetings with other Christians and was sentenced to two years "reform through labor."

119. Geng Minxuan is a Christian elder from Sunzhuang Village, Malon Commune, Lushan County who was arrested with three other men (Zhang Yunpeng, Wang Xincai, and Cui Zhengshan) and charged with belonging to a Christian group outside the government sanctioned Three Self Patriotic Movement; plotting to overthrow China's proletarian dictatorship and socialist system; having ties to overseas reactionary forces; receiving and distributing foreign materials; disturbing social order; and disturbing and breaking up normal religious activities. Minxuan received an eleven year sentence.

120. Xie Moshan ("Moses Xie") is in his early 70's and is a house church leader from Shanghai who was arrested April 24, 1992, on charges of "conducting illegal itinerant evangelism". Released July 23, 1992, Moshan's movement is severely restricted and he is required to report to the Public Security Bureau.

121.-122. Mr. Lalling and Mr. Nawlkung (given names unknown) were reportedly arrested and jailed for distributing Christian literature and are being held in the Yunan State Prison near the Burmese border.

123. Yang Rongfu is a house church Christian of Anhui province who reportedly was arrested before June, 1990, for unspecified reasons and is being prevented from seeing his family.

124. Zhang Ruiyu (or Chang Rhea-yu) is a physical education teacher and house church Christian from Xianyu County, Fujian Province, who was badly hurt in May, 1990, during a Public Security Bureau raid on her home. She was tortured with electric shocks and beatings that caused her to lose several teeth. Public Security Bureau officers confiscated Bibles and Christian literature from her home. From May, 1990, until her detention in August, 1990, Ruiyu was harassed and reportedly tortured by Public Security Bureau officials. She was charged on March 27, 1991, with "inciting and propagating a counter-revolution (a charge which carries a maximum sentence of life in prison) and with "distributing seditious propaganda." Tried in April, 1991, and sentenced to four years in prison, she is thought to be detained in a women's prison in Fuzhou.

125.-126. Pei Jieshu and Pei Shangchen are Christian leaders from Youtong village in Hebei Province who were arrested October 23, 1989, and reportedly placed in prison; however, there have been no current reports of the length of their sentences or their health status.

127. Lin Shanming is a Roman Catholic seminarian of Pingtan County, Fujian Province, who was arrested on September 14, 1988. Reportedly released, this information has not been independently confirmed.

128. Bai Shuqian is an elderly member of Little Flock house church from Ye County, Henan Province, who was arrested in 1983 and charged with holding illegal religious meetings and receiving foreign Christian literature. Sentenced to 12 years imprisonment, Shuqian is thought to be held in Kaifeng, Henan.

129. Wang Tianzhang is a Roman Catholic deacon from Lanzhau Diocese, Gansu Province, who was arrested in late 1989 or early 1990 and is believed to still be in prison.

130. Wang Thongshang is a Roman Catholic deacon and community leader in Baoding Diocese, Hebei Province, who was arrested on December 16, 1989, and is believed to still be in prison.

131. Bao Tong is in very poor health and is serving a seven-year sentence in solitary confinement in Quincheng Prison in Beijing for his Christian faith.

132. Ren Wanding is serving a seven-year sentence in Beijing Prison No. 2 for his faith in Jesus Christ. According to reports, he is seriously ill suffering from acute gastritis, chronic chest infections, and failing eyesight.

133. Lin Wenming is a Roman Catholic layman or seminarian of Fuqing County, Fujian Province, who was arrested September 14, 1988. He was reportedly released, but this information has not been independently confirmed.

134. He Xiaxing is a member of an outlawed underground church from Fuqing City, Fujian Province, who was arrested December 23, 1993, and is reportedly being detained in Jiangjing town detention center.

135. Wang Xincai is a Christian leader from Zhangcun (Zhandeum) Village, Fuling Brigade, Xinji Commune, Lushan County, who was arrested with Geng Minxuan.

136. Ge Xinliang was arrested in 1993 for unauthorized meetings with other Christians and was sentenced to two years "reform through labor."

137. Pan Yiyuan is a Christian from Zhangzhou, Henan Province, who was arrested February 2, 1994, and charged with "possessing reactionary Christian printed matter from overseas," "involvement with overseas Christian organizations," and "contacting Christians in China," and "opposing the government's religious policies."

138. Li Yongfu is a Roman Catholic layman from Tianjin Diocese who was arrested in late 1989 or early 1990 and is believed to still be in prison.

139.-141. Tian Mingge, Zheng Xintai, and Zhang Yongliang were arrested along with seven foreign national Christians during a February 11, 1994 raid, on a house near Fangcheng, Henan Province. Earlier that day, the same house hosted an unregistered church service attended by seventy to ninety people. After their arrest, the ten were held and interrogated in the Fangcheng Public Security Bureau Detention Center. The seven foreign Christians were released four days later and expelled from the country; however, they stated that they could hear the three Chinese Christians being tortured.

142. Xu Yongze is the leader of a house church network in central China from Nanyang, Zhenping County, Henan Province, who was arrested on April 16, 1988, in Beijing, where he had gone to attend a worship service led by the American evangelist Billy Graham. He was sentenced to three years imprisonment at the Zhenping County Prison, Henan.

143. Chen Youping is a Roman Catholic layman of Fujian Province who was arrested on March 1, 1988, in Liushan Village. He is reportedly free now; however, this information has not been independently confirmed.

144. Zhang Youzong (or Youzhong) is a Roman Catholic layman who was arrested in late 1990 or early 1991 and reportedly sentenced to three years imprisonment. Chinese authorities reported in March, 1993, that he had been released; however, this information has not been independently confirmed.

145. Song Yude is a house church leader from Tongbo County, Henan Province, who was arrested July 16, 1984. He was tried January 26, 1989, and sentenced to eight years imprisonment for "counter-revolutionary" activities, including holding illegal religious meetings, criticizing the TSPM, and setting up new house churches. Released from prison in April, 1992, he is still deprived of political rights and his movements are restricted.

146. Zheng Yunsu is a leader in the Chinese religious community. He was arrested in June, 1992, and sentenced to 12 years imprisonment. Reportedly held at Shengjian Motorcycle Factory labor camp near Jinan city, four of Zheng's sons were also arrested and sentenced to as many as nine years imprisonment.

147.-149. He Suolie, Kang Manshuang, and Du Zhangji are house church leaders from Henan Province who were arrested in 1985 for opposing the TSPM and sentenced to eight, five, and four years in prison, respectively.

150.-153. Wang Dabao, Yang Mingfen, Xu Hanrong, and Fan Zhi are members of a house church and were arrested in Funan County, Anhui Province, in 1991.

154.-156. Zhang Lezhi, Yan Peizhi, and Xu Zhihe are Christians from Shandong Province who belong to the New Testament Church and were arrested in September, 1992. Sentenced in December, 1992, to three years re-education through labor for "illegal" religious activities, including membership in the banned New Testament

Church, these Christians are detained in Chang Le County labor camp. Following his arrest, Zhang was tortured with electric batons, chained, and beaten.

157. Pei Zhongxun (Chun Chul) is a seventy-five-year-old ethnic Korean Christian from Shanghai. Reported to be held in Shanghai Prison No. 2, he was arrested in August, 1983, and sentenced to 15 years.

158. Chen Zhuman is fifty years old and in poor health. He was arrested December 14, 1991, and sentenced without trial in July, 1992, to three years "reeducation through labor" for his Christian faith. Chen is reportedly held at Quanzhou prison in Fujian.

159. Lin Zilong is an 80-year-old Christian leader in Fuqing City, Fujian Province, who was arrested December 23, 1993, with He Xiaxing and Han Kangrui by Public Security Bureau officials.

160. Rev. Chi Huitian of Hebei Province was arrested on April 17, 1995, for his refusal to obey the order from the Security Bureau to cancel his Easter Mass. He stayed in jail about 6 months. He now suffers from a brain concussion which resulted from severe torture while in jail.

161. Rev. Xu Delu of Jiangsu Province was arrested on October 8, 1995, after he had offered a Holy Mass in a private home. There is no news regarding his condition.

162. Rev. Guo Baile of Jiangsu Province, known as a "fisherman's priest", was arrested on November 1, 1995 after he offered a Holy Mass on a 40-ton cement boat. Arrested with him were two female Catholics who were beaten with an electric baton. There is no further news of their fate and condition.

163. During the 1995 Easter season, 30 to 40 persons were arrested in Yu Jiang. Four persons were sentenced to 2 to 5 years imprisonment. They are Pan Kunming (5 years), Rao Yanpink (4 years), Yu Shuishen (3 years), Yu Qixiang (2 years).

164. Rev. Zeng Jingmu has been arrested many times. He was rearrested on November 22, 1995 and is still in jail.

165. An 80-year-old Roman catholic pastor, Rev. Zhao Tingbin, is visited by authorities daily to investigate the property rights of his church and seminary, and villagers feel this could be a prelude to the church's being destroyed.

166. Chinese Public Security Agents ransacked the home of another Roman Catholic Priest, Father Zen Caijun, S.J., in Shanghai, and seized religious goods and money.

167. On March 4, 1997, eight agents from the Shanghai's Public Security Bureau ransacked the tiny apartment where the 79-year-old Bishop Joseph Fan Zhongliang, SJ resides with his niece. Bishop Fan is the Coadjutor Bishop of the underground Roman Catholic Diocese of Shanghai. The security agents seized his bibles, missals, catechism, the Code of Canon Law, breviaries, religious medals, rosaries, and other religious books and articles. Additionally, they seized all his funds amounting to $ 20,000 JMP (about US $2,500) which could be the entire treasury of the underground Roman Catholic Diocese of Shanghai.

168. In April and May last year, 5000 soldiers supported by armored cars and helicopters sealed off a tiny village called Dong Lu in Hebei where a national Marian shrine is located and to which almost 100,000 underground Catholics came in 1995. The soldiers destroyed that shrine. They confiscated the Statue of the Blessed Virgin Mary and arrested two bishops and many priests and lay persons. One of the bishops is Bishop Su Zhimin, the Bishop of Baoding. He has now disappeared.

169. Thomas Zeng Jingmu, 75-years-old and sick, was sentenced in March 1995, to three years in a labor camp because he celebrated a Mass for his faithful.

170. Joannes Han Dingxiang was offered a bribe from a government official to join the Patriotic Association. After refusing the offer, he was put into jail.

171. Charles Guo was sentenced to 2 years in a labor camp because he offered a Mass, administered sacraments, taught catechism, supported the Roman Pontiff and refused to join the Patriotic Association; and

172. Eighty Catholics, among them Au-yang Rensheng, Chen Faliang, Chen Quanjiao, Chen Yangyun, Chen Suzhen, Dai, Hohua, Deng Shusheng, Deng Rongmao, Ding Quancai, Gao Bewei, Gao Lanxin, Gao Shuping, Gao Yan, Gu Guolong, Ho Changjin, Ho Dongjiao, Liang Yingxiang, Liao Pingping, Liu Betian, Liu Guirong, Liu Meiying, Luo Aiging, Luo Xianghua, Wang Hohua, Wang Qingin, Wong Xiaomei, Wu Huanglong, Wu Maohua, Wu Qiulin, Wu Yinghua, Xu Biyun, Yan Runlian, In Guozhen, Yu Gaoming, Zeng Lilan, Zeng Tirong, Zeng Xiangjin, Zhang Hongmei, Zhang Guiming, Zhou Guirong, Zhou Yiquan, Zhu Huixiu, were arrested in Jiangxi on November 20 last year.

WHEREAS, In his speech on December 3, 1996, the Pope undoubtedly referred to the Patriotic Association as "a church which does not respond either to the will of the Lord Jesus, nor to the Catholic faith"; and

WHEREAS, China's secret police, the Public Security Bureau (PSB), which is the equivalent of Russia's notorious KGB, is relentlessly cracking down on Christians as part of the Communist government's religious policy of preventing what is referred to as "peaceful evolution"; and

WHEREAS, on the evening of March 27, 1994, in the village of Taoyuan, Xunyang County, in the Shaanxi Province, eight local PSB officers raided a house where thirty-one Christians had gathered for their regular weekly time of prayer. Without explanation, the PSB officers singled out three men and two women who were then handcuffed, stripped naked, and beaten with truncheons. The other Christians in attendance were forced to participate in beating their fellow believers with bamboo rods; those who refused were also beaten. One of the women present at the meeting reported that a 12-year-old boy was badly beaten on his head by the PSB officers, lifted into the air, and with blood pouring from his head wounds, was thrown into the people; and

WHEREAS, Zheng Musheng from the Hunan Province was a Christian house-church leader who was taken by six PSB officers, tortured, and beaten to death for "boldly proclaiming his Christian faith"; and

WHEREAS, in March, 1994, five US journalists were barred from visiting Chinese "labor-reform" camps, even though the visits were agreed to by Premier Peng; and

WHEREAS, these despicable and unconscionable acts by the Communist Chinese government are desperate measures to suppress religious freedom which is perceived by the communists as a danger to the party's control over the citizens of China; and

WHEREAS, China's persecuted Christians make up much of the slave labor which is a key element in the country's economic growth;

WHEREAS, on April 14, 1994, the New York Times reported that Lane Kirkland, leader of the AFL-CIO, had denounced China's use of slave labor and has stated "it is our view that China has not met the most minimum conditions for satisfying the requirements of granting Most Favored Nation treatment which allows China to export products to the U.S. at low tariff rates"; and

WHEREAS, in 1993, the United States bought $6 billion of Communist-Chinese-made shoes and clothing which were produced by the approximately 20 million slave laborers (many of whom were Christian prisoners of conscience) sentenced to be "re-educated through labor"; and

WHEREAS, under China's Most Favored Nation trading status, the United States purchased nearly one-quarter of the Communist country's $72 billion in exports in 1993; and

WHEREAS, by law the United States and other Western countries pledge not to import goods of suspected forced-labor origin; and

WHEREAS, of the 99 categories of commodities China imports into the United States, 64 can be proven to be provided by slave labor enterprises; and

WHEREAS, the following is a partial list of slave labor camps where Chinese Christians are sent to produce Americas' "Made-in-China" bargains:

Beijing Municipality Prison No. 1 produces 3 million pairs of nylon stockings per year using 3000+ women inmates;

Tianjin Municipality Labor Reform Camp produces 30,000 sheets for annual export;

Xinsheng No.3 Factory Labor Reform Camp uses over 3,500 inmates to produce products derived from spinning and weaving;

Guangdon Province No. 1 Prison makes shoes for export using over 1,200 inmates;

Jiangxi Province Labor Reform Camp's Zhuhu Pharmaceutical Factory produces medicinals for export, earning 6 million yuan profits annually;

Ningxia Hui Autonomous Region Provincial Prison No. 1 produces clothing and shoes for export, earning 800,000 yuan annually;

Qinghai Province Labor Reform Camp's Hide and Garment Works exported $5.2 million in furs and leather products in 1991;

Sichuan Province's Peng'an Prison's production of weaving and auto parts earned $5,863,000 yuan in 1970 using over 2,000 inmates;

Hubei Province's Jinzhou Prison uses over 5,000 inmates to produce textiles and auto parts and resulted in profits of $8.49 million in US dollars between 1986 and 1988;

Jiangsu Province Provincial No. 1 Prison uses over 1,000 female inmates to produce knitted products and gloves;

Shanghai Municipality's Baimaoling Farm Labor Reform Camp women's battalion produces woolen products which annually brings in millions of dollars in profits;

Jilin Province's Changchum Prison produces shoes with inmate labor;

Henan Province's Provincial No. 1 Prison uses over 4,000 inmates to sew garments and produce electrical instruments; and

WHEREAS, between one-fourth to one-sixth of the total number of Labor Reform Camps currently use slave labor, in addition to the 50 to 80 Juvenile Offender Camps which compel 200,000 to 300,000 youthful prisoners into forced labor like other Labor Reform Camp inmates;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this body, both individually and collectively, hereby condemn the Communist Republic of China for persecuting Christians and using them as slave laborers.

Section 2. That the members of the Kentucky House of Representatives do hereby urge the Governors of all fifty states to consider divesting their state's investments in companies doing business in the Communist Republic of China until such time as that nation ceases its campaign of brutal persecution of Christian leaders.

Section 3. That the Kentucky House of Representatives hereby urges President Clinton not to renew Most Favored Nation trading status with the Communist Republic of China until such a time as that nation releases those imprisoned for their faith in Jesus Christ.

Section 4. That the Kentucky House of Representatives urges the United States House of Representatives to suspend all multilateral aid from the Asian Development and World Banks to China until such a time as that nation ceases to use slave labor which undermines human dignity and economic parity.

Section 5. That the members of this honorable body urge members of Congress to launch a Radio Free China for broadcasting free world hope to the Chinese people, until such a time as the Chinese government ceases to ban the importation of Bibles and allows Chinese Christians the right to hear international broadcasts.

Section 6. That the members of this body call on Christians throughout the free world to take immediate action to meet with and encourage elected officeholders at every level to adopt similar resolutions and proclamations.

Section 7. That the Kentucky House of Representatives urges all state agencies and businesses in the Commonwealth to use every means available to discourage the importation and sale of Chinese exports in the Commonwealth, including such products which may have been produced by the use of slave labor.

Section 8. That this honorable body does hereby urge the members of this state's Congressional Delegation to testify before the House Subcommittee on Trade and the Senate Subcommittee on International Trade against approval of China's Most Favored Nation trading status until all the aforementioned prisoners of conscience have been accounted for and released from prisons and slave labor camps.

Section 9. That the members of this honorable body do hereby set apart this resolution as a living memorial to Jesus Christ and the countless number of his servants murdered for their faith during the last forty-seven years by the Chinese Communist government.

Section 10. That the Legislative Research Commission is hereby directed to transmit a copy of this resolution along with a cover letter from the sponsor urging that these individuals use their personal influence to relieve the suffering of the Chinese people to President Clinton, The White House, 1600 Pennsylvania Avenue, Washington, D.C. 20500, the 438 members of Congress, the Governors of the 50 states, the Speakers of the House of Representatives of the other 49 states; Governor Christopher Patten, of Hong Kong, at Government House, Upper Albert Road, Central, Hong Kong; and Chief Executive C.H. Tung at 705 Pacific, City Bank Plaza, 3 Garden Road, Hong Kong, and Ambassador Lee LiDaoyu, Embassy of the Peoples Republic of China, 2300 Connecticut Avenue, N.W., Washington, D.C. 20008, and any other agency designated by the sponsor.

There being no objection **HR 7** was adopted.

Representative Gevenden moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Geveden moved the adoption of the following **HR 5**:

HR 5, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Richard H. Lewis.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, Richard H. Lewis.

WHEREAS, Richard H. Lewis, a native of Princeton, Kentucky, was born on December 3, 1937, and traversed these earthly bounds on March 11, 1997; and

WHEREAS, Richard H. Lewis was the adored son of Nola Hayes Lewis and Fred T. Lewis, who preceded him in death; and

WHEREAS, Richard H. Lewis was the devoted husband of Martha Cunningham Lewis; the loving father of three daughters, Beth Lewis Maze, Cynthia Jones, and Katherine Helms; and proud grandfather of four grandsons; and

WHEREAS, Richard H. Lewis served his country with distinction as a captain in the United States Army; and

WHEREAS, Richard H. Lewis earned his bachelor of science degree from Murray State University in 1960 where he was the recipient of the Golden Horseshoe Award; and he earned his J.D. degree from the University of Kentucky College of Law in 1965 where he was the recipient of the Roy M. Moreland Service Award; and

WHEREAS, Richard H. Lewis served his constituents with pride during two sets of terms in the Kentucky General

Assembly from 1970-1975 and 1989-1994, representing the sixth legislative district of Caldwell, Lyon and Marshall counties; and

WHEREAS, to mention only a few of his many leadership accomplishments, Richard H. Lewis was Chief Executive Officer to Governor Julian Carroll from 1975-1976; he was a member of the Workers' Compensation Board from 1976-1978; he was chairman of the Kentucky Alcohol Beverage Board from 1980-1982; in 1980, Governor John Y. Brown, Jr., appointed him chairman of the Workers' Compensation Revision Task Force; in 1982, he was special commissioner to the Marshall Circuit Court; and in 1995, he was appointed by Governor Brereton Jones to the Murray State University Board of Regents; and

WHEREAS, Richard H. Lewis was named by the House of Representatives in 1970 as the Outstanding Freshman Representative; he was the recipient of the Lifetime Achievement Award from the Marshall County Chamber of Commerce; and he was named Marshall County Citizen of the Year in 1977; and

WHEREAS, in a life dedicated to public service, Richard H. Lewis set an unparalleled example of integrity and commitment ; and

WHEREAS, Richard H. Lewis was a devout member of the First Baptist Church of Benton, Kentucky, where he served as deacon and chairman of the Pulpit Committee; and

WHEREAS, all who knew and admired Richard H. Lewis will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its deepest sense of sorrow upon the passing of Richard H. Lewis, and extends to his family its most heartfelt sympathy and profound gratitude for his life and work.

Section 2. The passion, dedication, intelligence and social consciousness Richard H. Lewis brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Richard H. Lewis.

Section 4. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Martha Cunningham Lewis, 117 Greenwood Road, Benton, Kentucky 42025.

There being no objection **HR 5** was adopted.

Roll call to show co-sponsors of **HR 5** is as follows: J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Curd, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The following member filed a request to have his name added as co-sponsor of a Bill under the rules previously suspended: **HB 1**, Representative Thomas.

Representative Stumbo moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported the following Bill has been recommitted:

Education: **HB 1**

Announcements

The following meetings were announced:

Health and Welfare, Room 131, 1:00 p.m.

Education, Room 149, 11:00 a.m.

Minority Caucus, Room 316, upon adjournment.

Personal Service Contracts, 11:00 a.m.

Administrative Regulation Review, Room 131, upon adjournment.

Mountain Caucus, Room 327, 10 minutes upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., May 14, 1997.

On the roll call the vote was **Yeas 80**--R. Adams, Adkins, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, G. Graham, Hatcher, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 4**--Deskins, Lile, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, MAY 14, 1997

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Mark Hopper, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 13, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 1**, by Representative Yonts:

On page 117, line 2, by adding "***(a)***" after "***(11)***" and before the word "Review" by inserting:

"***Except as provided in paragraph (b) of this subsection,***"; and

On page 117, line 11 by deleting the semi-colon "***;***" after "***System***" and inserting a period "***.***" in lieu thereof; and

On page 117, after line 11 by inserting the following:

"***(b) Any county which on January 1, 1997 had an organized group to establish a community college satellite as a branch of an existing community college, and had substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, is authorized to begin construction of the satellite on or after January 1, 1998.***"

Introduction of Bills and Resolutions

HR 8, by Representative Burch: A Resolution adjourning the House of Representatives in loving memory and honor of Captain Paul Douglas Barnes, Jr.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolution:

Education: **HJR 6**

Representative Stumbo moved that the rules be suspended to allow the Committee on Appropriations and Revenue to meet and to waive the one day posting requirement on **HB 2**. Agreed.

Representative Stumbo moved to waive the one day posting requirement on **HJR 6**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Appropriations and Revenue to meet in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 3 to the Committee Substitute to **HB 1**, by Representative Long:

On page 190, after line 24, by adding the following:

SECTION 147. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No later than sixty (60) days following the Council for Postsecondary Education's adoption of the strategic agenda pursuant to Section 6 of this Act, the Commission on Postsecondary Education Efficiency shall be established.

(2) The commission shall be composed of eleven (11) members appointed by the Governor. A member shall not be an employee of a postsecondary institution nor serve as a member of a governing board of a postsecondary institution.

(3) The commission shall be charged with reviewing all program offerings provided by Kentucky's postsecondary education system to identify programs to abolish based on their low performance or unnecessary duplication within the system. The commission shall consider the strategic agenda, regional needs, and the missions of the institutions in making its determinations. It shall hold a public hearing prior to its adopting final recommendations.

(4) The commission shall be attached administratively to the Office of the Governor and the president of the Council on Postsecondary Education shall provide staff services to the commission.

(5) Six (6) months following its creation, the commission shall present its findings, including a list of programs to be abolished, to the Council on Postsecondary Education and the Legislative Research Commission. The list in its entirety shall be adopted by the council unless the General Assembly at the next regular session provides a line item budget appropriation for the operation of a specific program to be continued.

On page 190, line 25, after "Section", by changing "147" to "148";

On page 191, line 3, after "Section", by changing "148" to "149";

On page 192, line 2, after "Section", by changing "149" to "150";

On page 192, line 6, after "Section", by changing "150" to "151".

Report of Committees

The Committee on Education reported **HB 1,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Substitute to **HB 1,** AN ACT relating to postsecondary education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development of a well-educated and highly-trained workforce; and

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

(d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that ensures, in conjunction with other postsecondary institutions, reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a

workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;

(4) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;

(5) "Committee" means the Strategic Committee on Postsecondary Education created in Section 4 of this Act;

(6) "Council" means the Council on Postsecondary Education created in Section 71 of this Act;

(7) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(8) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

(9) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:

(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

(b) The University of Kentucky Community College System, formerly administered by the board of trustees of the University of Kentucky. This branch does not include the Lexington Community College, which shall be administered by the board of trustees of the University of Kentucky.

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

(10) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(11) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(12) "Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(13) "Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(14) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(15) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(16) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(17) "Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and

(18) "Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Strategic Committee on Postsecondary Education is hereby created and established. The committee shall be composed of members appointed by the Council on Postsecondary Education, the Governor, and the General Assembly. The council's representatives shall consist of the chair of the council, the president of the council, and six (6) members of the council designated by the chair. The Governor's representatives shall consist of the Governor and seven (7) persons designated by the Governor. The General Assembly's representatives shall consist of the President of the Senate, the Speaker of the House of Representatives, the Majority and Minority Floor Leaders of both chambers of the General Assembly, the minority caucus chair of each chamber, and the chair of the Committee on Appropriations and Revenue of each chamber.

(2) The chair of the council shall serve as chair of the committee. The committee shall meet at least quarterly and at other times upon the written call of the chair or of majorities of any two (2) of the three (3) groups that compose the committee.

(3) Nonlegislative members of the committee shall serve without compensation, but shall be reimbursed for their actual and necessary expenses, as set forth in KRS 12.070(5). Committee members who are Kentucky legislators shall be compensated for attendance at committee meetings from the legislative branch budget bill and as set forth in KRS 6.190.

(4) The committee shall serve as a forum for the council and the elected leadership of the Commonwealth to exchange ideas about the future of postsecondary education in Kentucky.

(5) The council shall periodically review the implementation plans for the strategic agenda and advise the committee of the actions necessary to meet the goals established in Section 2 of this Act. The elected leaders shall review and comment on the strategic agenda and the timetable for implementation.

(6) The Governor shall advise the committee about the financial condition of the Commonwealth and the probable funds the executive branch intends to recommend to the General Assembly to be appropriated for postsecondary education.

(7) The legislative members shall react to the comments of the council and the Governor.

(8) The council shall advise the committee about its opinion of how the postsecondary education funds projected to be available should be allocated based on priorities and projected resources. Nothing in this section shall be construed to infringe upon the Governor's duty under KRS 48.100 to recommend appropriations to the General Assembly or upon the General Assembly's power to make final appropriations in the enacted budget.

(9) The committee shall have the advisory authority not explicitly prohibited by statute that is necessary to carry out and effectuate its advisory functions, duties, and responsibilities, including the following:

(a) Receive reports from the council on the development and implementation of the long-term and biennial strategic agendas, including biennial budget plans for postsecondary education, and any subsequent and related strategic agendas and budget plans;

(b) Review the council's proposed biennial strategic agenda for the next fiscal biennium, including plans for accountability and the accomplishment of the objectives in the strategic agenda;

(c) Consider and advise the council on the general budget parameters regarding development of the postsecondary budget for the next fiscal biennium;

(d) Review biennial budget requests from the council for the next fiscal biennium including base funding, increases in base funding, and funding for a strategic investment and incentive funding program including criteria to be used in allocating these funds to institutions;

(e) Receive from the council, at least annually and on a more frequent basis if requested by the committee, accountability reports, budget information, and other information the committee deems proper; and

(f) Serve as the search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 72 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(11) Once appointed, the president shall serve at the pleasure of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

    1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

    2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and

    3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 82 of this Act.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

(7) In developing the strategic agenda for postsecondary education, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda for postsecondary education, the council shall distribute a copy to each local school district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital

processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, Kentucky Community and Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual

University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university and the Kentucky Community and Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university or the Kentucky Community and Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Community and Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities and the Kentucky Community and Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems

necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner. The regional universities shall be the primary developers and deliverers of baccalaureate and masters degree programs to be delivered by distance learning.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Community and Technical College System shall appoint a chancellor to head the Community Colleges' Branch and a chancellor to head the Technical Institutions' Branch, except that the present chancellor of the University of Kentucky Community College System, formerly governed by the University of Kentucky board of trustees, shall serve as the chancellor of the Community Colleges' Branch.

(2) The chancellors shall be appointed from candidates selected in a search by a search committee. When a new chancellor is needed to head the Community Colleges' Branch, the president of the system shall appoint a chancellor from a list of three (3) candidates nominated by a search committee composed of equal representatives appointed by the University of Kentucky board of trustees and the Kentucky Community and Technical College System board of regents.

(3) The chancellors shall possess the necessary skills to guide and direct the institutional missions of the respective branches.

(4) Each chancellor shall be responsible for:

  (a) Administering the programs and services for the respective branches;

  (b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff of the respective branch;

  (c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;

  (d) Supervising the development of policies within the overall framework of the system;

  (e) Advocating the needs of the students, institutions, and staff under their respective jurisdictions;

  (f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the community colleges and the technical institutions;

  (g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;

  (h) Preparing accountability reports and other reports as needed;

  (i) Preparing internal budget plans; and

  (j) Other duties as identified by the president.

(5) Each chancellor shall serve at the pleasure of the president.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the Kentucky Community and Technical College System.

  (a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.

  (b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the

administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 66 of this Act or the Kentucky Employees Retirement System under Section 35 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs; and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the former University of Kentucky Community College System, except for the Lexington Community College, and shall assume all assets and liabilities of this system, except for the Lexington Community College, including without limitation, all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property including improvements, facilities, funds, and records relating to the operation of the community colleges, except those responsibilities, programs, staff, equipment, real property including improvements, facilities, funds, and records, pertaining to the Lexington Community College. The president and board of regents of the Kentucky Community and Technical College System shall have jurisdiction over the use and distribution of the resources to operate the system effectively and efficiently. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the community colleges, except the real property pertaining to the Lexington Community College, from the University of Kentucky to the Kentucky Community and Technical College System.

(2) All funds that are allocated in the University of Kentucky budget for administering the system, including the personnel, operating, and capital funds shall be transferred to the board, except those allocated to Lexington Community College. The transfer of funds shall include funds held in escrow, invested funds solely for the purpose of the community colleges, and bequests specifically earmarked for the community colleges. The board may divide the assets among the specific organizations and institutions within the community colleges branch to meet the mission of the system. Private funds, foundation funds, and funds raised by a not-for-profit or nonprofit organization for the use and benefit of a specific program or community college shall be used exclusively for the program or community college.

(3) The board shall adopt the rules that were policy as of June 30, 1998, in the University of Kentucky administrative regulations to govern personnel transferred as of July 1, 1998, except that the rules shall provide that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply to the transferred employees:

(a) Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

(b) Employees with tenure shall transfer their tenure. Transferred employees without tenure shall earn tenure based on personnel policies in effect at the time of their employment. New employees without tenure shall earn tenure based on the new policies established by the board;

(c) Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998; and

(d) All employees shall be provided the benefit package that is available on June 30, 1998, for the University of Kentucky employees, including participation in an optional retirement plan.

(4) A transferred employee may elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the existing rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. The employee shall have the right to exercise this option at any time.

(5) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules established by the board.

(6) A regular full-time employee may, with prior administrative approval, take one (1) course per semester or combination of summer sessions on the University of Kentucky's campus or at a community college during the employee's normal working hours. The University of Kentucky shall defray the registration fee up to a maximum of six (6) credit hours per semester or combination of summer sessions.

(7) Students enrolled in the University of Kentucky Community College Branch in the Kentucky Community and Technical College System, governed by the board of regents, shall be guaranteed the same rights and privileges they had in the University of Kentucky Community College System, previously governed by the University of Kentucky board of trustees. These privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award contest, and University of Kentucky scholarship programs.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Community and Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Community and Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education and to the Strategic Committee on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Kentucky Community and Technical College System may, at its option, continue to contract for necessary services from the University of Kentucky that it provided to the community colleges prior to the establishment of the Kentucky Community and Technical College System, or it may provide for some or all of the services through its own employees and facilities, or it may contract for those services with other providers. These services shall be provided at a reasonable cost and shall include, but not be limited to, library services and processing scholarships and student loans. The University of Kentucky shall be reimbursed the reasonable costs of services. The Kentucky Community and Technical College System shall not be assessed by the University of Kentucky for rental charges or other similar fees for the use of real or personal property. The Council on Postsecondary Education shall resolve any disputes about services to be provided and costs to be charged for the services.

SECTION 24. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities and the Kentucky Community and Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Community and Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 25. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999 and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:
  - ***(a) A baseline analysis and projections of economic conditions and outlook;***
  - ***(b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and***
  - ***(c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.***

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 26. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Offices of the Deputy Secretaries.
    - (g) Office of General Counsel.
    - (h) Medical Examiner Program.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
    - (a) Department of Education.
        - (1) Kentucky Board of Education.
        - (2) Education Professional Standards Board.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Arts Council.
    - (d) Kentucky Educational Television.
    - (e) Kentucky Historical Society.
    - (f) Kentucky Teachers' Retirement System Board of Trustees.
    - (g) Kentucky Center for the Arts.
    - (h) Kentucky Craft Marketing Program.
    - (i) Kentucky Commission on the Deaf and Hard of Hearing.
    - (j) Governor's Scholars Program.
    - (k) Governor's School for the Arts.
    - (l) Office of Development.
    - (m) Kentucky Heritage Council.
    - (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
    - (a) Environmental Quality Commission.
    - (b) Kentucky Nature Preserves Commission.
    - (c) Department for Environmental Protection.
    - (d) Department for Natural Resources.
    - (e) Department for Surface Mining Reclamation and Enforcement.
    - (f) Office of Legal Services.
    - (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
    - (a) Department of Highways.
    - (b) Department of Vehicle Regulation.
    - (c) Department of Administrative Services.
    - (d) Department of Fiscal Management.
    - (e) Department of Rural and Municipal Aid.
    - (f) Office of Aeronautics.

(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.

(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
   (a) Department of Administration and Support.
   (b) Department of Job Development.
   (c) Department of Financial Incentives.
   (d) Department of Community Development.
   (e) Tobacco Research Board.
   (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.
   (h) Kentucky Racing Commission.
   (i) Board of Claims.
   (j) Crime Victims Compensation Board.
   (k) Kentucky Board of Tax Appeals.
   (l) Backside Improvement Commission.
7. Cabinet for Human Resources:
   (a) Department for Health Services.
   (b) Department for Social Insurance.
   (c) Department for Social Services.
   (d) Department for Medicaid Services.
   (e) Department for Mental Health and Mental Retardation Services.
   (f) Commission for Children with Special Health Care Needs.
   (g) Public Assistance Appeals Board.
   (h) Office of Administrative Services.
   (i) Office of Communications.
   (j) Office of General Counsel.
   (k) Office of Inspector General.
   (l) Office of Policy and Budget.
   (m) Office of the Ombudsman.
8. Finance and Administration Cabinet:
   (a) Office of Legal and Legislative Services.
   (b) Office of Management and Budget.
   (c) Office of Financial Management and Economic Analysis.
   (d) Office of the Controller.
   (e) Department for Administration.
   (f) Department of Facilities Management.

(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:

(a) Department for Adult Education and Literacy.

(b) Department for Technical Education.

(c) Department of Vocational Rehabilitation.

(d) Department for the Blind.

(e) Department for Employment Services.

(f) State Board for Adult and Technical Education.

(g) Governor's Council on Vocational Education.

(h) The State Board for Proprietary Education.

(i) The Foundation for Adult Education.

(j) The Kentucky Job Training Coordinating Council.

(k) Office of General Counsel.

(l) Office of Communication Services.

(m) Office of Development and Industry Relations.

(n) Office of Workforce Analysis and Research.

(o) Office for Administrative Services.

(p) Office for Policy, Budget, and Personnel.

(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on ***Postsecondary***[~~Higher~~] Education.

(a) Kentucky Community Service Commission.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

7. Department of Veterans' Affairs.

8. Kentucky Commission on Military Affairs.

Section 27. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***[~~Higher~~] Education[~~ (The state universities and colleges shall report through the Council on Higher Education)~~];

(2) Department of Military Affairs;

(3) Department of Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs; and

(7) Coal Marketing and Export Council.

Section 28. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***[~~of higher education~~] pertaining to students attending or applicants to ***the***[~~such~~] institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 29. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;[~~ and~~]

(z) Employees of the Kentucky Peace Corps***; and***

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] shall be construed as precluding appointing officers from filling

unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided ***in KRS 18A.005 to 18A.200***~~[herein]~~.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 18 of this Act; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 30. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Community and Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 31. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Community and Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 32. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,~~[and]~~ Eastern Kentucky University***, and the Kentucky Community and Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 33. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;~~[and]~~
9. Eastern Kentucky University***; and***
10. Kentucky Community and Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 34. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state[~~colleges or~~] universities ***and the Kentucky Community and Technical College System*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state[~~college or of the~~] university ***or the Kentucky Community and Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 35. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***[~~Higher~~] Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);[~~and~~]

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 36. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

  (a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

  (b) The state budget director or his designee;

  (c) The commissioner of the Department of Information Systems;

  (d) The State Librarian or his designee;

  (e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

  (f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 37. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the

Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The chief state school officer or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) The executive director of the Public Service Commission or his designee;

(k) One (1) representative of local governments to be appointed by the Governor; and

(l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 38. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;

6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 39. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,[~~ and~~] Murray State University***, and the Kentucky Community and Technical College System***, and members of the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall not be removed except for cause.

Section 40. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Community and Technical College System***[~~Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet~~];

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The ***chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System***[~~commissioner of the Department for Adult and Technical Education~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions[~~ hereunder~~].

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 41. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two

hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered***:***~~[,]~~

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***~~[,]~~

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 42. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***~~[herein]~~.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of~~[nondegree programs in post-secondary and vocational-technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational-technical schools,]~~ state-operated ***secondary*** area vocational education ***and technology*** centers~~[, state technical institutes, and technology centers]~~. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***~~[Kentucky Board of Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education]~~. ***In addition to direct appropriations, funds appropriated to support*** the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching ***specialties***~~[specialities]~~. Such agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***~~[45]~~. All such agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 43. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.~~[The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.]~~

(2) There is hereby created a Division of ***Administrative***~~[Federal Programs and Support]~~ Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***~~[the Kentucky Tech System]~~ within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***~~[vocational technical schools and]~~ area ***vocational education and technology*** centers~~[known as the Kentucky Tech System]~~. The office shall be composed of the Division of School ***Management***~~[Operations]~~, the Division of ***Curriculum Services***~~[Program Management]~~, an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 44. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the ***state-operated area vocational education and technology centers***~~[Kentucky Tech System]~~ school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the

state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 18 of this Act; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 45. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of

teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***[~~schools~~] shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 46. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Community and Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Community and Technical College System***[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.~~]

Section 47. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 48. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Community and Technical College System and other postsecondary institutions*** when feasible. No public institution of higher education[~~, including the community colleges,~~] shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the ***review***[~~consent~~] of the[~~ State~~] board ***of regents*** for ***the Kentucky Community***[~~Adult~~] and Technical ***College System and the approval of the Council on Postsecondary*** Education. The[~~ State~~] board ***of regents*** for ***the Kentucky Community***[~~Adult~~] and Technical ***College System***[~~Education~~], with approval of the Council on ***Postsecondary***[~~Higher~~] Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 49. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***[~~vocational-technical schools and~~] area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for[~~ postsecondary pupils and~~] adults who are enrolled ***in secondary programs*** in the state- operated[~~ vocational-technical schools and~~] area vocational education ***and***

technology centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System***.[~~ The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.~~]

Section 50. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***[~~vocational technical schools~~] and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***[~~state vocational technical~~] schools ***under its jurisdiction***[~~and area vocational education centers~~]. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary[~~ and postsecondary~~] students[~~ and adults~~], the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 51. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to***,*** the following:

   (a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

   (b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

   (c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

   (d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

   (e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

   (f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

   (g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) [~~The commissioner of the Department for Technical Education;~~

~~(g)~~]The commissioner of the Department for Adult Education and Literacy;

(g)[~~(h)~~] The commissioner of the Department for the Blind;

(h)[~~(i)~~] The ***two (2) chancellors***[~~chancellor~~] of the[~~ University of~~] Kentucky Community ***and Technical*** College System;

(i)[~~(j)~~] A representative from the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(j)[~~(k)~~] A representative from the Kentucky Chamber of Commerce; and

(k)[~~(l)~~] Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 52. KRS 151B.410 is amended to read as follows:

(1) The Department for Adult Education and Literacy shall administer an adult education learning system in regions of the state. The adult education learning system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical schools,[~~ University of Kentucky~~] community colleges, regional universities,[~~ and~~] adult ***education centers,***[~~and~~] family resource centers, adult correctional facilities, and other institutions.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education learning system may include: the Adult Education Act as amended by the National Literacy Act; Kentucky Education Reform Act funded family resource centers; Job Training Partnership Act; Kentucky Bluegrass State Skills Corporation, Job Opportunities and Basic Skills program; adult technical education;[~~ University of Kentucky~~] community college system; Parent and Child Education programs; student scholarship and grants; fees for services rendered; and other general, agency, local, federal, and private funds.

(2) Services included as part of the adult education learning system shall include, but not be limited to:

(a) Functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills;

(b) Literacy and adult basic education which includes learning for those with academic educational skills below the ninth grade level;

(c) Adult secondary education that includes learning above the ninth grade level including GED preparation and the external diploma program, that is a competency-based assessment system which credentials mature adults who have acquired high school level skills through life experiences;

(d) Family literacy programs, that have a goal of intergenerational transfer of cognitive skills, support of children's education, participation in Kentucky Education Reform Act and breaking the poverty cycle, by offering basic skills and competencies with parenting, life skills, and parent-child interactive activities; and

(e) English as a second language programs for adults who have limited English proficiency.

(3) (a) The Department for Adult Education and Literacy within the Cabinet for Workforce Development may establish regional adult education advisory committees, representing adult education practitioners, state vocational technical and~~[University of Kentucky]~~ community college educators, employment and career advisors, business and industry participants, employees, students, and organized labor.

(b) The adult education advisory committees shall meet at least twice a year to:

1. Advise the Department for Adult Education and Literacy on the regional training services and needs in the area of adult education and functionally-contexted workplace essential skills;

2. Report the number and location of referral and access points that have identified an adult population who is or could benefit from service and has an active interest in participation;

3. Report the number and location of entrance points that have identified an adult population who has been referred for service; and

4. Report the number of adults served and the number completing programs, method of payment for services, outcomes of service provision, and career and employment change following program completion.

(4) In administering an adult education system, the Department for Adult Education and Literacy shall:

(a) Establish regions for purpose of implementing an adult education learning system assisting local programs;

(b) Make provision for quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including GED preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(c) Develop student assessments in coordination with other educational and employment entities, allowing assessments to be shared when necessary with appropriate personnel for accessing students, additional educational programs, taking into consideration student confidentiality;

(d) Establish professional credentials for instructors, and make provision for the development of those providers who have not attained the established credentials;

(e) Develop criteria for certifying adult education providers;

(f) Develop administrative regulations for consideration by the Cabinet for Workforce Development and the State Board for Adult and Technical Education, including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(g) Require and monitor compliance with Cabinet for Workforce Development administrative regulations and policies; and

(h) Develop and implement performance measures and benchmarks.

Section 53. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***~~[chairman]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Cabinet for Workforce Development and the ***president***~~[chancellor]~~ of the~~[University of]~~ Kentucky Community ***and Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 54. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B,[~~ on or before January 1, 1995,~~] the University of Kentucky, Eastern Kentucky University, Morehead State University, ***and*** the ***Kentucky*** Community ***and Technical*** College System[~~ of the University of Kentucky, and the Kentucky Tech System~~] in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) No state agency provider of workforce training shall reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 55. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 56. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky

Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education, Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 57. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 58. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

(b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Cabinet for Workforce Development;~~[and]~~

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

(h) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 59. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***~~[Higher]~~ Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***~~[Higher]~~ Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 60. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***~~[Higher]~~ Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 61. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***~~[Higher]~~ Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 62. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***~~[Higher]~~ Education for educational institutions under their jurisdiction. ***The***~~[Such]~~ rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing; and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 63. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***~~[Higher]~~ Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 64. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 65. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***~~[Higher]~~ Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

 (a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

 (b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

 (c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education~~[no later than December 1, 1993,]~~ that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 66. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

 (a) Local boards of education;

 (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community~~[or junior]~~ colleges established under the control of these universities***, and the Kentucky Community and Technical College System and any community colleges or technical institutions established under its control***;

 (c) ***State-operated secondary***~~[State and]~~ area vocational ***education or area technology centers***~~[schools]~~, Kentucky School for the Blind, and Kentucky School for the Deaf;

 (d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

 (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

 (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

(l) The Department of Vocational Rehabilitation;

(m) The Kentucky Educational Collaborative for State Agency Children;

(n) The Governor's Scholars Program; and

(o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 67. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions[~~ of higher education~~] who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***[~~pursuant to~~] KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions[~~ of higher education~~];

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions[~~ of higher education~~]; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 68. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions[~~ of higher education~~] identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution[~~ of higher education~~] which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 69. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***~~[Higher]~~ Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***~~[Higher]~~ Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution~~[of higher education]~~, the Council on ***Postsecondary***~~[Higher]~~ Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***~~[Higher]~~ Education Student Advisory Committee;
3. Associations representing faculty from universities and community colleges;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on ***Postsecondary***~~[Higher]~~ Education pursuant to KRS 164.011, except ***for*** the ***four (4) members of the Kentucky Community and Technical College System who shall be nominated by the board of trustees of the University of Kentucky under Section 95 of this Act***~~[student member]~~. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***~~[Higher]~~ Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 70. KRS 164.0053 is amended to read as follows:

(1) No appointing authority shall appoint himself or his spouse, or the Governor or his spouse***,*** to a[~~ university~~] governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***[~~Higher~~] Education created pursuant to KRS 164.011.

(2) No full-time employee of a public institution of ***postsecondary***[~~higher~~] education shall be eligible to serve on the Council on ***Postsecondary***[~~Higher~~] Education or on the governing board of another institution of ***postsecondary***[~~higher~~] education, except the community ***and technical*** college faculty ***and nonteaching personnel***[~~representative~~] serving on the ***board of regents for the Kentucky Community and Technical College System***[~~University of Kentucky Board of Trustees~~].

(3) ***No postsecondary institution shall award an honorary degree to a sitting governor.***

(4) All[~~ university~~] governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***[~~Higher~~] Education shall have no conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 71. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***[~~shall be~~] a Council on ***Postsecondary***[~~Higher~~] Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***fifteen (15) voting***[~~the chief state school officer, and seventeen (17) lay~~] members appointed by the Governor ***with the consent of the Senate and the House of Representatives under KRS 11.160, and the commissioner of education, who shall serve as a nonvoting ex officio member. Appointive council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 69 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly***[~~: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member~~].

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 69 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation, assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect the minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve. One member shall be a full-time faculty member employed at a state public institution of higher education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by majority vote of the ten (10) faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) four-year state public institutions of higher education and the community college system. One (1) member***[~~ The student member~~] shall be enrolled as a full-time student at a state public institution of higher education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions of higher education and one (1) representative of the community college student body presidents elected from among themselves, shall elect by majority vote of the nine (9) presidents three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments***[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the~~

~~Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each appointive member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

(a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one (1) of which shall be the student member~~];

(b) ***Four (4) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];

(c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];

(d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];

(e) ***Two (2) appointments shall expire December 31, 2001***[~~Three (3) members shall serve five (5) year terms~~]; and

(f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) ***The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 72. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) ***Develop and implement the state strategic postsecondary education agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;***

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 82 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Community and Technical College System. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11)[~~(5)~~] Review and approve all capital construction projects ***covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System;***

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the[~~ University of~~] Kentucky Community ***and Technical*** College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~ or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature.***

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;

(b) Alignment with the priorities in the state strategic postsecondary education agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall ~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions ***that comply with the standards for teacher certification established by the Education Professional Standards Board pursuant to Section 64 of this Act;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment***;***[~~.~~]

(22)[~~(13)~~] ***Maintain***[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[~~ after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee***;***[~~.~~]

(23)[~~(14)~~] Monitor and ***transmit a*** report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee***;***[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state ***postsecondary educational*** institution[~~ of higher education~~] a comprehensive orientation program ***for new members of the council and the***[~~to be carried out by the respective institution for newly appointed~~] governing ***boards***[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning ***the roles of the council, the Strategic Committee on Postsecondary Education, the state strategic postsecondary education agenda and the implementation plan, and*** the respective institution's mission, budget, plans, policies, strengths, and weaknesses***;***[~~.~~]

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit coursework in the state-supported postsecondary education system; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 73. KRS 164.0205 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall promote, support, and assist in the program created in KRS 158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 74. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning ***and the president of the Kentucky Community and Technical College System*** shall serve on an advisory conference for the Council on ***Postsecondary***[~~Higher~~] Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on ***Postsecondary***[~~Higher~~] Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on ***Postsecondary***[~~Higher~~] Education will meet with the Advisory Conference of Presidents.

Section 75. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***[~~Higher~~] Education shall pay to the college not more than two hundred dollars ($200) per

school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 76. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 77. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 78. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 79. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees and qualifications for admission to and reports from their respective institutions.

Section 80. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty-five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 81. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 82. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

(b) "Institution" means public universities, their subdivisions, and the[~~ University of~~] Kentucky Community ***and Technical*** College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this Act***[~~standards~~]. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***[~~through a collaborative effort involving~~] the ***postsecondary educational***[~~higher education~~] institutions and the Council on ***Postsecondary***[~~Higher~~] Education.

(3) The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:

(a) Educational quality and educational outcomes;

(b) Student progress in the postsecondary system;

(c) Research and service activities;

(d) Use of resources;

(e) Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and

(f) Other indicators as deemed appropriate by the Council on Postsecondary Education.

(4) The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions[~~The accountability process shall be implemented in phases as follows:~~

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program~~].

(5) [~~(b) Beginning December 1, 1993,~~]The Council on ***Postsecondary***[~~Higher~~] Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 83. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions[~~ of higher education~~] in the state;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs[~~ and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution~~].

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 84. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 72 of this Act, as a condition of their appointment.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky,[~~ one (1) member of the teaching faculty of the community college system,~~] and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3)[~~ (a)~~] The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

[~~(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.~~]

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) No member of the board shall serve more than two (2) consecutive terms.

Section 85. KRS 164.150 is amended to read as follows:

No member of a governing board of a public institution of ***postsecondary***[~~higher~~] education shall be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 86. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 138 of this Act and KRS 45.750(1)(f)*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 87. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take..

(b) "Universities and colleges" means all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher learning~~] in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the

maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***[~~Higher~~] Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky.

Section 88. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions[~~ of higher learning~~] is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 89. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution[~~ of higher education~~] is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 90. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~ of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of higher education including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 91. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~ of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 92. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~] Education may have a faculty member as a voting member of its board of trustees or regents.

Section 93. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-

degree level in education, business, and the arts and sciences, specialist degrees***,*** and programs beyond the masters-degree level to meet the requirements for teachers, school leaders***,*** and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the[~~ University of~~] Kentucky Community ***and Technical*** College System, as provided ***in Section 109 of this Act***[~~by this chapter~~].

Section 94. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Community and Technical College System***[~~(or College)~~].

Section 95. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Community and Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body.

1. Four (4) members shall be appointed by the Governor from three (3) nominations for each of four (4) appointments, recommended by the board of trustees of the University of Kentucky. The Governor may request additional nominations at his discretion.

2. Four (4) members shall be appointed by the Governor from nominations by the Governor's Postsecondary Nominating Committee, under Section 69 of this Act.

No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Community and Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~ a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

No member of a board of regents shall be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for

reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for ***the*** original election.

(b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representatives of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 72 of this Act, as a condition of their appointment.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Community and Technical College System shall be appointed by July 31, 1997.

Section 96. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the ***appropriate institution***~~[university or college]~~.

Section 97. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities and ***of the Kentucky Community and Technical College System***~~[state colleges]~~, no person who is a member of either house of the Kentucky General Assembly shall serve as a member of the board of trustees or board of regents of any state-supported ***institution***~~[college or university]~~.

Section 98. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the ***institution***~~[university or college]~~ or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 99. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and ***the Kentucky Community and Technical College System***~~[colleges]~~ is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a)~~[(1)]~~ Receive grants of money and expend the same for the use and benefit of the university or college;

(b)~~[(2)]~~ Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;

(c)~~[(3)]~~Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;

(d)~~[(4)]~~ Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and

(e)~~[(5)]~~Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system. The guidelines pertaining to community colleges shall define the processes for review and approval by the boards of directors for the community colleges;

(b) Adopt a consolidated budget request upon the recommendation of the chancellors of the branches and president of the system for submission to the Council on Postsecondary Education for approval;

(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and

(d) Consider recommendations from the boards of directors of the community colleges to improve the overall budget planning and allocation processes.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted long-term and biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.

Section 100. KRS 164.351 is amended to read as follows:

(1) State colleges and universities ***and the Kentucky Community and Technical College System*** shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state ***technical institution, community*** college, or university shall inform students of the name and telephone number of a ***technical institution, community college,*** college, or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 101. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state-supported institution of ***postsecondary education***~~[higher learning]~~ provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 102. KRS 164.360 is amended to read as follows:

(1) ***(a)*** Each board of regents ***for the universities*** may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Community and Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or ***Kentucky Community and Technical College System***[~~college~~], and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 103. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University ***and the Kentucky Community and Technical College System***, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Community and Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.

Section 104. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Community and Technical College System*** shall establish such incidental fees and nonresident tuition fees as will be sufficient for the purpose of paying the incidental expenses of the university or college and as are consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. No money derived from nonresident tuition or other fees paid by students shall be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 105. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 138 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase***,*** and hold property ***under Section 138 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 138 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 106. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount***,*** and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 107. KRS 164.4781 is amended to read as follows:

~~[By the beginning of the 1986-87 school year,]~~There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***~~[Higher]~~ Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.~~[By the beginning of the 1987-88 school year,]~~ The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 108. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***~~[Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races]~~.

Section 109. KRS 164.580 is amended to read as follows:

(1) The~~[University of]~~ Kentucky Community ***and Technical*** College System is established. ***The Kentucky Community and Technical College System***~~[Each community college]~~ shall provide:

(a)~~[(1)]~~ A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;

(b)~~[(2)]~~ Technical and semiprofessional programs of two (2) years or less;~~[and]~~

(c)~~[(3)]~~Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented***; and***

(d) Services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state.

(2) The Kentucky Community and Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever- changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) Students attending the University of Kentucky Community College System Branch under the administration of the board of regents for the Kentucky Community and Technical College System may pursue three (3) kinds of degree programs:

(a) Associate degree programs that were previously approved by the University of Kentucky board of trustees before the establishment of the Kentucky Community and Technical College System but that are now under the academic control of the University of Kentucky Community College System Branch and board of regents. These programs shall be periodically reviewed by a process established by the University of Kentucky board of trustees. A report shall be forwarded to the chancellor of the branch, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The University of Kentucky board of trustees shall confer degrees and award diplomas for these programs;

(b) Associate degree programs that are developed by the Kentucky Community and Technical College System and approved by the board of regents and the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for the approved programs; and

(c) Joint degree programs that are developed between the University of Kentucky Community College System Branch and the Technical Institutions' Branch or other institutions.

(4) The board of regents for the Kentucky Community and Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(5) Each community college shall have the primary responsibility through its faculty senate and governance structure for determining academic policy and programs that shall be recommended through the chancellor to the president of the Kentucky Community and Technical College System and to the board of regents for approval.

(6) The Technical Institutions' Branch through its faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

Section 110. KRS 164.583 is amended to read as follows:

(1) Each community college of the[~~ University of~~] Kentucky Community ***and Technical*** College System may offer, within the two (2) year academic curriculum of the college, any and all lower division academic courses offered for undergraduate credit at any and all of the four (4) year state-supported colleges and universities.

(2) All lower division academic courses offered by the community colleges shall be transferable for academic credit to any and all four (4) year state-supported colleges and universities, regardless of the number of academic credits earned by any student at one (1) or more community college.

(3) Nothing ***in this section***[~~herein~~] shall be construed or interpreted to change, reduce, or otherwise affect the required distribution between lower division and upper division courses now required for matriculation in an undergraduate program at any institution of higher education.

Section 111. KRS 164.591 is amended to read as follows:

A community college ***or extension of a community college*** shall be maintained in each of the following locations: Ashland, Carrollton, Cumberland, Elizabethtown, Glasgow, Henderson, Hopkinsville, Madisonville, Owensboro, ***Paducah,*** Prestonsburg, Somerset, Blackey-Hazard, Jefferson County and Mason County. ***The University of Kentucky may continue to operate a community college in Lexington, and Western Kentucky University may continue to operate a community college in Bowling Green. Additional extension centers may be established by the board of regents for the Kentucky Community and Technical College System with approval of the Council on Postsecondary Education. New community colleges shall require approval of the General Assembly.***

Section 112. KRS 164.593 is amended to read as follows:

(1) The board of ***regents for the Kentucky Community and Technical College System shall recognize previous actions under prior law.***

(2) [~~trustees of the University of Kentucky, (herein called board) may include~~]Paducah Junior College ***may be included*** in the system provided for by KRS 164.580 upon the concurrence of the board and the board of trustees of Paducah Junior College. Following the concurrence of the two (2) boards, an agreement shall be executed between the board and the board of trustees providing for the conversion of the existing facilities of Paducah Junior College and containing other provisions the parties deem appropriate and desirable. ***Notwithstanding the provisions of subsection (1) of this section, the Kentucky Community and Technical College System shall become the legal successor in interest to the University of Kentucky for any agreement executed according to the provisions of this subsection prior to the***

effective date of this Act.

(3)[~~(2)~~] The agreement required by subsection ***(2)***[~~(1)~~] may provide for the transfer to the board of any funds accruing to Paducah Junior College as the result of any contract or agreement with any agency or instrumentality of the United States or the Commonwealth of Kentucky including any funds accruing pursuant to KRS 164.027.

(4)[~~(3)~~] Upon the execution of the agreement required by subsection ***(2)***[~~(1)~~], any taxes levied under KRS 165.170 or 165.175 and paid to the trustees shall continue to be received by the board of trustees of Paducah Junior College. However, the trustees may in the agreement[~~,~~] provide for the expenditure of the taxes levied for such purposes as the trustees and the board may mutually agree.

Section 113. KRS 164.594 is amended to read as follows:

(1) The community college in the Big Sandy Valley is designated as Prestonsburg Community College. The service area of Prestonsburg Community College shall include Pike County in its entirety.

(2) Course offerings in Pike County shall be expanded as necessary, to respond more fully to the higher and adult educational needs of the citizens of the area.

(3) The[~~ University of~~] Kentucky Community ***and Technical*** College System may use private or state funds to purchase, renovate, and otherwise make available physical facilities in the Pike County area conducive to educational purposes.

Section 114. KRS 164.595 is amended to read as follows:

(1) The board ***of regents for the Kentucky Community and Technical College System***[~~has the same powers with respect to the community colleges that it has as to the University of Kentucky in general. The board~~] shall designate each community college with a name that includes the words "Community College."

(2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction or operation of community colleges. The board may commemorate donations from private persons or corporations with suitable memorials.

(3) The board may accept federal grants to be used in the acquisition, construction, or operation of community colleges.

Section 115. KRS 164.597 is amended to read as follows:

[~~Upon prior concurrence of the board of trustees of the University of Kentucky and the board of regents of the Northern Kentucky University,~~]The Northern Community College at Covington shall be operated by the board of regents of the Northern Kentucky University and shall ***not***[~~no longer~~] be considered part of the[~~ University of~~] Kentucky Community ***and Technical*** College System. The board of regents of the Northern Kentucky University shall provide programs of a community college nature at Northern Community College at Covington comparable to those ***community colleges that make up the Kentucky Community and Technical College System***[~~listed for the University of Kentucky community college system, as provided in this chapter~~].

Section 116. KRS 164.600 is amended to read as follows:

(1) There shall be a[~~ local advisory~~] board ***of directors*** for each community college ***under the Kentucky Community and Technical College System***, except as provided in KRS 165.160. Each[~~ local advisory~~] board ***of directors*** shall***:***

   (a) Select and recommend the candidate for the community college president from three (3) candidates nominated by the chancellor of the community college system. The chancellor shall make the final appointment;

   (b) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

   (c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

   (d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;

   (e) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education[~~serve in an advisory capacity to the board and the head of the community college on the operation of the community college~~].

(2) ***The president of each community college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under Section 99 of this Act.***

(3) Each[~~ local advisory~~] board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)[~~ local advisory~~] board members shall be one (1) member of the teaching faculty and one (1) member of the student body.[~~ After July 13, 1990,~~] An appointed member's term ***shall be***[~~is~~] six (6) years[~~; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of~~]

~~less than four (4) years~~].

(4)[~~(3)~~] The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the[~~ local advisory~~] boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5)[~~(4)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6)[~~(5)~~] ***The***[~~Local advisory board~~] members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

(7) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

Section 117. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority

under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Community and Technical System***[~~State Board for Adult and Technical Education~~] and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 118. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 119. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 120. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***~~[Higher]~~ Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent~~[nonprofit]~~ college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 121. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

(b) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 122. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

(a) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, associate and baccalaureate degree programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;

(c) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 123. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

(a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 72 of this Act as a prerequisite to their

appointment.

(b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(c) No appointed member shall serve more than two (2) consecutive terms.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 124. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***~~[such]~~ removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***~~[such]~~ other officers as it deems wise, including the annual election of a ***six (6)***~~[five (5)]~~ member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***~~[such]~~ rules~~[as]~~ the board shall establish under its authority to make ~~[such]~~bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of~~[such]~~ reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 125. KRS 164.915 is amended to read as follows:

The~~[By July 1, 1991, the]~~ Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***~~[Higher]~~ Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 126. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on ***Postsecondary***~~[Higher]~~ Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 127. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***~~[Higher]~~ Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***~~[Higher]~~ Education using the following criteria:

(a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

(b) The scope and volume of patient care;

(c) The amount of available physical facilities;

(d) The current number and types of residency positions offered at each university;

(e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

(f) The extent of involvement in education in primary care in ambulatory care settings; and

(g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***~~[Higher]~~ Education.

Section 128. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***~~[Higher]~~ Education shall coordinate the activities of the participating institutions, as described in

KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 129. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***[~~Higher~~] Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 130. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***[~~herein~~] shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers***,*** or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 131. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

  (a) Irregularity and impairment in communication;

  (b) Engagement in repetitive activity and stereotyped movement;

  (c) Resistance to environmental change or change in daily routine; and

  (d) Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 132. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky is authorized to operate a state autism training center, including:

(a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;

(b) The construction of necessary buildings;

(c) The expansion, remodeling, altering, or equipping of necessary buildings; and

(d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 133. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in

respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 134. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky recognized in KRS 164.100, 164.290, ***Section 109 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 135. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

(a) The treasurer of the ***institution***[~~university~~] shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

(b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 136. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***[~~university~~] making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

(a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

(b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

(c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

(d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

(e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);
2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and
3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***[~~Higher~~] Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Section 137. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***[~~university~~] making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, and members of the governing board.

Section 138. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

(a) Contractual services where no competition exists[~~, such as telephone service, electrical energy, and other public utility services~~];

(b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

(c) Instructional materials available from only one (1) source;

(d) Where rates are fixed by law or ordinance;

(e) Library books;

(f) Commercial items that are purchased for resale;

(g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

(h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

(i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or ***lessor***~~[leasor]~~ approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 139. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***~~[Higher]~~ Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 140. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Community and Technical College System***[~~; but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council~~];

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 141. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***[~~Higher~~] Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 142. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection; or the secretary of the Cabinet for Economic Development, or the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 143. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***~~[Higher]~~ Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 144. KRS 332.110 is amended to read as follows:

(1) This chapter shall not apply to any school or educational institution which offers to full-time, regularly enrolled students as a part of its curriculum a course in driving instruction nor to automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles nor to employers who give instruction without charge to their employees.

(2) This chapter shall not apply to any college within the ***Kentucky Community and Technical College System***~~[University of Kentucky community college system]~~ which offers to part-time students a course in drivers instruction where there is no school licensed pursuant to this chapter in the county.

Section 145. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***chancellor for the Technical Institutions' Branch in the Kentucky Community and Technical College System***~~[state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education]~~ shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 146. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on ***Postsecondary***~~[Higher]~~ Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 147. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.

164.575 Definition for KRS 164.575 to 164.600.

164.582 Definition for KRS 164.583.

186.1865 Special Kentucky Tech license plates.

Section 148. Whereas it is critical that an orderly transfer be made to establish the Kentucky Community and Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Chancellor of the University of Kentucky Community College, the Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for each system, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, operations, management, and support of the University of Kentucky Community College System, and other funds designated for these purposes, and transfer of the personnel and funds to the new systems shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources within the agencies described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Community and Technical College System is employed by the board of regents for the Kentucky Community and Technical College System.

Section 149. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 150. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Appropriations and Revenue reported **HB 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT making an appropriation to the Legislative Research Commission for expenses incurred in connection with the First Extraordinary Session of 1997 of the General Assembly, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be appropriated from the General Fund, for payment of salaries and other expenses of the First Extraordinary Session of 1997 of the General Assembly, the sum of $30,800 per calendar day during the First Extraordinary Session of 1997.

Section 2. That there be appropriated from the General Fund, for payment of expenses incurred during the First Extraordinary Session of 1997 to the Legislative Research Commission, the sum of $3,000 per calendar day during the First Extraordinary Session of 1997.

Section 3. That there be transferred from the Monthly Expenses of Legislators' Account to the Legislative Session Fund the amount of $4,500 per calendar day of the First Extraordinary Session of 1997 to be used for necessary expenses during the Extraordinary Session.

Section 4. That there be appropriated from the General Fund to the Legislative Session Fund the sum of $15,000 to pay the cost of printing and binding the Acts and Journals of the First Extraordinary Session of 1997.

Section 5. That there be appropriated from the General Fund to the Legislative Session Fund the sum of $85,400 to pay the cost of expert testimony, legislators' travel, and stationery allowances for the First Extraordinary Session of 1997.

Section 6. Notwithstanding the provisions of KRS 6.230 to the contrary, pages shall receive a per diem of $25 each.

Section 7. Whereas the General Assembly is now in session, and it is necessary that funds be made available immediately, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law and shall be retroactive to include all calendar days of the First Extraordinary Session of 1997, beginning May 12, 1997.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for the purpose of a Rules Report. Agreed.

Report of Committees (Cont.)

The Committee on Rules reported the following Bill has been recommitted:

Education: **HB 1**

Motions, Petitions and Communications

Representative Burch moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Burch moved the adoption of the following **HR 8**:

HR 8, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Captain Paul Douglas Barnes, Jr.

With deepest respect, we pay homage and tribute to Captain Paul Douglas Barnes, Jr.

WHEREAS, it is with heavy hearts and deep sadness when we reflect upon the Marine helicopter accident along the Southern California coast on Sunday, May 11, 1997, that took the lives of four United States Marine Corps servicemen; and

WHEREAS, Kentucky's native son, Captain Paul Douglas Barnes, Jr., was aboard the helicopter that fateful day; and

WHEREAS, this honorable body, representing the citizens of the Commonwealth of Kentucky, mourns the grief and suffering afflicted upon the family and friends of Captain Paul Douglas Barnes, Jr.; and

WHEREAS, Captain Paul Douglas Barnes, Jr., was the adored son of Carolyn Barnes and Paul Douglas Barnes, Sr., and the loving brother of Shannon Barnes and L.W. Barnes; and

WHEREAS, Captain Paul Douglas Barnes, Jr., graduated from Anderson County High School in 1988, and graduated from the Virginia Military Institute in 1992 with a bachelor's degree in history, after which time he entered the United States Marine Corps as a second lieutenant; and

WHEREAS, Captain Paul Douglas Barnes, Jr., brought to his community and to this great nation the enthusiasm and optimism he displayed throughout his life; and

WHEREAS, a life spent worthily should be measured by deeds, not years, and through his compassion, self-sacrifice, enthusiasm, and genuine love and concern for his fellow man, Captain Paul Douglas Barnes, Jr. is worthy of the highest commendation; and

WHEREAS, the passing of Captain Paul Douglas Barnes, Jr., has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body expresses its most profound sense of sorrow upon the passing of Captain Paul Douglas Barnes, Jr., and does extend to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Captain Paul Douglas Barnes, Jr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Tom Burch for presentation to the family of Captain Paul Douglas Barnes, Jr.

There being no objection **HR 8** was adopted.

Roll call to show co-sponsors for **HR 8** is as follows:--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman.

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 3**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Glenna Hawes Davis for one hundred remarkable years of living life to its fullest. Whereas, Glenna Hawes Davis, who was born on May 14, 1897, is held in extraordinary esteem for the respect and admiration in which said recipient is held by family, friends and community; and inasmuch as this honorable individual has lead an exceptional life, composing an impressive success story on life's moving slate; the members of this distinguished body are pleased to join Representative John A. Arnold, Jr. in recognizing this exceptional woman and her one hundred phenomenal years of accomplishments. **Legislative Citation No. 3** was adopted without objection.

Roll call to show co-sponsors of Legislative Citation No. 3 is as follows:–J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Colter, Cox, Crall, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Lovell, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman.

Representative Marzian moved the adoption of the following **Legislative Citation No. 4**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Representative Eleanor Jordan for her selection into the Henry Toll Fellowship Program. The program, named in honor of Henry Wolcott Toll, founding father of The Council of State Governments, trains 35 leaders each year from across the country in an intensive five-day program which provides information and perspectives not available in the course of everyday public service. The life of the late Colorado state senator serves today as the model for Toll Fellows: he was visionary, innovative, courageous and, throughout his work, good-humored. This august body joins Speaker Jody Richards in acknowledging the great honor bestowed upon Representative Jordan and in challenging her to carry high the torch passed from one who toiled so diligently before her. **Legislative Citation No. 4** was adopted without objection.

Representative D. Graham moved the adoption of the following **Legislative Citation No. 5**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Representative Jim Lovell for his selection into the Henry Toll Fellowship Program. The program, named in honor of Henry Wolcott Toll, founding father of The Council of State Governments, trains 35 leaders each year from across the country in an intensive five-day program which provides information and perspectives not available in the course of everyday public service. The life of the late Colorado state senator serves today as the model for Toll Fellows: he was visionary, innovative, courageous and, throughout his work, good-humored. This august body joins Speaker Jody Richards in acknowledging the great honor bestowed upon Representative Lovell and in challenging him to carry high the torch passed from one who toiled so diligently before him. **Legislative Citation No. 5** was adopted without objection.

Announcements

The following meetings were announced:

Agriculture and Natural Resources, Room 111, 1:00 p.m..

Health and Welfare, Room 131, 1:00 p.m.

Minority Caucus, Room 113, upon adjournment.

Subcommittee on Agriculture and Small Business, Room 129, 5 minutes upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., May 15, 1997.

On the roll call the vote was **Yeas 87**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Colter, Cox, Crall, Crenshaw, Curd, Damron, DeWeese, Ford, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 5**--Collins, Lile, Nunn, Riggs, Stewart.

The motion to adjourn was adopted.

THURSDAY, MAY 15, 1997

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except for Representatives Bowling, Deskins and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 14, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 1**, by Representative Collins:

On page 146, after line 18 by inserting the following new language:

"***(3) The board of regents for the Kentucky Community and Technical College System shall establish a salary schedule for all faculty and staff of the system. The salary schedule shall be based on the faculty person or staff person's years of service within the system and all credentials, including but not limited to, education, professional awards, and career development training. The board shall update the salary schedule annually. A faculty person or a staff person shall not lose salary or compensation as a consequence of the establishment of the salary schedule.***"

Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 1**, by Representative Murgatroyd:

On page 107, line 16 after "of" the first time it appears on that line by inserting "***the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect***".

Introduction of Bills and Resolutions

HR 9, by Representatives Bruce and Richards: A RESOLUTION urging the Kentucky Revenue Cabinet to permit insurance companies selling Single Premium Deferred Annuities and Wholly Employer Sponsored Group Annuities in Kentucky to continue to elect the reporting and payment of the premiums tax upon annuitization rather than paying the tax in the year in which the annuity is purchased.

Floor Amendments (Cont.)

Floor Amendment No. 6 to the Committee Substitute No. 2 to **HB 1**, by Representative Long:

On page 191, after line 11, by adding the following:

SECTION 148. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No later than sixty (60) days following the Council for Postsecondary Education's adoption of the strategic agenda pursuant to Section 6 of this Act, the Commission on Postsecondary Education Efficiency shall be established.

(2) The commission shall be composed of eleven (11) members appointed by the Governor. A member shall not be an employee of a postsecondary institution nor serve as a member of a governing board of a postsecondary institution.

(3) The commission shall be charged with reviewing all program offerings provided by Kentucky's postsecondary education system to identify programs to abolish based on their low performance or unnecessary duplication within the system. The commission shall consider the strategic agenda, regional needs, and the missions of the institutions in making its determinations. It shall hold a public hearing prior to its adopting final recommendations.

(4) The commission shall be attached administratively to the Office of the Governor and the president of the Council on

Postsecondary Education shall provide staff services to the commission.

(5) Six (6) months following its creation, the commission shall present its findings, including a list of programs to be abolished, to the Council on Postsecondary Education and the Legislative Research Commission. The list in its entirety shall be adopted by the council unless the General Assembly at the next regular session provides a line item budget appropriation for the operation of a specific program to be continued.

On page 191, line 12, after "Section", by changing "148" to "149";

On page 191, line 17, after "Section", by changing "149" to "150";

On page 192, line 16, after "Section", by changing "150" to "151";

On page 192, line 20, after "Section", by changing "151" to "152".

Report of Committees

The Committee on Education reported **HB 1**, with Committee Substitute No. 2 attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Substitute No. 2 to **HB 1**, AN ACT relating to postsecondary education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depend in large measure upon the development of a well-educated and highly-trained workforce; and

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

(d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that ensures, in conjunction with other postsecondary institutions, reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;

(4) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;

(5) "Committee" means the Strategic Committee on Postsecondary Education created in Section 4 of this Act;

(6) "Council" means the Council on Postsecondary Education created in Section 72 of this Act;

(7) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(8) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;

(9) "Kentucky Community and Technical College System" means the system composed of two (2) branches, which are:

- *(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and*
- *(b) The University of Kentucky Community College System, formerly administered by the board of trustees of the University of Kentucky. This branch does not include the Lexington Community College, which shall be administered by the board of trustees of the University of Kentucky.*

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

(10) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(11) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(12) "Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(13) "Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;

(14) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(15) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(16) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(17) "Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and

(18) "Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Strategic Committee on Postsecondary Education is hereby created and established. The committee shall be composed of members appointed by the Council on Postsecondary Education, the Governor, and the General Assembly. The council's representatives shall consist of the chair of the council, the president of the council, and six (6) members of the council designated by the chair. The Governor's representatives shall consist of the Governor and seven (7) persons designated by the Governor. The General Assembly's representatives shall consist of the President of the Senate, the Speaker of the House of Representatives, the Majority and Minority Floor Leaders of both chambers of the General Assembly, the minority caucus chair of each chamber, and the chair of the Committee on Appropriations and Revenue of each chamber.

(2) The chair of the council shall serve as chair of the committee. The committee shall meet at least quarterly and at

other times upon the written call of the chair or of majorities of any two (2) of the three (3) groups that compose the committee.

(3) Nonlegislative members of the committee shall serve without compensation, but shall be reimbursed for their actual and necessary expenses, as set forth in KRS 12.070(5). Committee members who are Kentucky legislators shall be compensated for attendance at committee meetings from the legislative branch budget bill and as set forth in KRS 6.190.

(4) The committee shall serve as a forum for the council and the elected leadership of the Commonwealth to exchange ideas about the future of postsecondary education in Kentucky.

(5) The council shall periodically review the implementation plans for the strategic agenda and advise the committee of the actions necessary to meet the goals established in Section 2 of this Act. The elected leaders shall review and comment on the strategic agenda and the timetable for implementation.

(6) The Governor shall advise the committee about the financial condition of the Commonwealth and the probable funds the executive branch intends to recommend to the General Assembly to be appropriated for postsecondary education.

(7) The legislative members shall react to the comments of the council and the Governor.

(8) The council shall advise the committee about its opinion of how the postsecondary education funds projected to be available should be allocated based on priorities and projected resources. Nothing in this section shall be construed to infringe upon the Governor's duty under KRS 48.100 to recommend appropriations to the General Assembly or upon the General Assembly's power to make final appropriations in the enacted budget.

(9) The committee shall have the advisory authority not explicitly prohibited by statute that is necessary to carry out and effectuate its advisory functions, duties, and responsibilities, including the following:

(a) Receive reports from the council on the development and implementation of the long-term and biennial strategic agendas, including biennial budget plans for postsecondary education, and any subsequent and related strategic agendas and budget plans;

(b) Review the council's proposed biennial strategic agenda for the next fiscal biennium, including plans for accountability and the accomplishment of the objectives in the strategic agenda;

(c) Consider and advise the council on the general budget parameters regarding development of the postsecondary budget for the next fiscal biennium;

(d) Review biennial budget requests from the council for the next fiscal biennium including base funding, increases in base funding, and funding for a strategic investment and incentive funding program including criteria to be used in allocating these funds to institutions;

(e) Receive from the council, at least annually and on a more frequent basis if requested by the committee, accountability reports, budget information, and other information the committee deems proper; and

(f) Serve as the search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the

General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 73 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(11) Once appointed, the president shall serve at the pleasure of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific

data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 83 of this Act.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

(7) In developing the strategic agenda for postsecondary education, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda for postsecondary education, the council shall distribute a copy to each local school district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, Kentucky Community and Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching

Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university and the Kentucky Community and Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university or the Kentucky Community and Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of

any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Community and Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities and the Kentucky Community and Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION.OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner. The regional universities shall be the primary developers and deliverers of baccalaureate and masters degree programs to be delivered by distance learning.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Community and Technical College System shall appoint a chancellor to head the Community Colleges' Branch and a chancellor to head the Technical Institutions' Branch, except that the present chancellor of the University of Kentucky Community College System, formerly governed by the University of Kentucky board of trustees, shall serve as the chancellor of the Community Colleges' Branch.

(2) The chancellors shall be appointed from candidates selected in a search by a search committee. When a new chancellor is needed to head the Community Colleges' Branch, the president of the system shall appoint a chancellor

from a list of three (3) candidates nominated by a search committee composed of equal representatives appointed by the University of Kentucky board of trustees and the Kentucky Community and Technical College System board of regents.

(3) The chancellors shall possess the necessary skills to guide and direct the institutional missions of the respective branches.

(4) Each chancellor shall be responsible for:

- *(a) Administering the programs and services for the respective branches;*
- *(b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff of the respective branch;*
- *(c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;*
- *(d) Supervising the development of policies within the overall framework of the system;*
- *(e) Advocating the needs of the students, institutions, and staff under their respective jurisdictions;*
- *(f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the community colleges and the technical institutions;*
- *(g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;*
- *(h) Preparing accountability reports and other reports as needed;*
- *(i) Preparing internal budget plans; and*
- *(j) Other duties as identified by the president.*

(5) Each chancellor shall serve at the pleasure of the president.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the Kentucky Community and Technical College System.

- *(a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.*
- *(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.*
- *(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.*
- *(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:*
    - *1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;*
    - *2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;*
    - *3. Employees shall transfer into the new system at a salary not less than their previous salary as of June*

30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 67 of this Act or the Kentucky Employees Retirement System under Section 36 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs; and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the former University of Kentucky Community College System, except for the Lexington Community College, and shall assume all assets and liabilities of this system, except for the Lexington Community College, including without limitation, all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property including improvements, facilities, funds, and records relating to the operation of the community colleges, except those responsibilities, programs, staff, equipment, real property including improvements, facilities, funds, and records, pertaining to the Lexington Community College. The president and board of regents of the Kentucky Community and Technical College System shall have jurisdiction over the use and distribution of the resources to operate the system effectively and efficiently. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the community colleges, except the real property pertaining to the Lexington Community College, from the University of Kentucky to the Kentucky Community and Technical College System.

(2) All funds that are allocated in the University of Kentucky budget for administering the system, including the personnel, operating, and capital funds shall be transferred to the board, except those allocated to Lexington Community College. The transfer of funds shall include funds held in escrow, invested funds solely for the purpose of the community colleges, and bequests specifically earmarked for the community colleges. The board may divide the assets among the specific organizations and institutions within the community colleges branch to meet the mission of the system. Private funds, foundation funds, and funds raised by a not-for-profit or nonprofit organization for the use and benefit of a specific program or community college shall be used exclusively for the program or community college.

(3) The board shall adopt the rules that were policy as of June 30, 1998, in the University of Kentucky administrative regulations to govern personnel transferred as of July 1, 1998, except that the rules shall provide that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply to the transferred employees:

(a) Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

(b) Employees with tenure shall transfer their tenure. Transferred employees without tenure shall earn tenure based on personnel policies in effect at the time of their employment. New employees without tenure shall earn tenure based on the new policies established by the board;

(c) Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998; and

(d) All employees shall be provided the benefit package that is available on June 30, 1998, for the University of Kentucky employees, including participation in an optional retirement plan.

(4) A transferred employee may elect to participate in the new Kentucky Community and Technical College personnel

system in lieu of the existing rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. The employee shall have the right to exercise this option at any time.

(5) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules established by the board.

(6) A regular full-time employee may, with prior administrative approval, take one (1) course per semester or combination of summer sessions on the University of Kentucky's campus or at a community college during the employee's normal working hours. The University of Kentucky shall defray the registration fee up to a maximum of six (6) credit hours per semester or combination of summer sessions.

(7) Students enrolled in the University of Kentucky Community College Branch in the Kentucky Community and Technical College System, governed by the board of regents, shall be guaranteed the same rights and privileges they had in the University of Kentucky Community College System, previously governed by the University of Kentucky board of trustees. These privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award contest, and University of Kentucky scholarship programs.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The board of regents for the Kentucky Community and Technical College System shall establish a personnel dispute resolution system that results, in the final stage, in an independent third party appeal for all employees of the Kentucky Community and Technical College System.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Community and Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Community and Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education and to the Strategic Committee on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 24. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Kentucky Community and Technical College System may, at its option, continue to contract for necessary services from the University of Kentucky that it provided to the community colleges prior to the establishment of the Kentucky Community and Technical College System, or it may provide for some or all of the services through its own employees and facilities, or it may contract for those services with other providers. These services shall be provided at a reasonable cost and shall include, but not be limited to, library services and processing scholarships and student loans. The University of Kentucky shall be reimbursed the reasonable costs of services. The Kentucky Community and Technical College System shall not be assessed by the University of Kentucky for rental charges or other similar fees for the use of real or personal property. The Council on Postsecondary Education shall resolve any disputes about services to be provided and costs to be charged for the services.

SECTION 25. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities and the Kentucky Community and Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Community and Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 26. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999 and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:

(a) A baseline analysis and projections of economic conditions and outlook;

(b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and

(c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 27. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
   (a) Secretary of State.
   (b) Board of Elections.
   (c) Registry of Election Finance.
4. Department of Law.
   (a) Attorney General.
5. Department of the Treasury.
   (a) Treasurer.
6. Department of Agriculture.
   (a) Commissioner of Agriculture.
   (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
   (a) Department of State Police.
   (b) Department of Criminal Justice Training.
   (c) Department of Corrections.
   (d) Department of Juvenile Justice.
   (e) Office of the Secretary.
   (f) Offices of the Deputy Secretaries.

(g) Office of General Counsel.
(h) Medical Examiner Program.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
  (1) Kentucky Board of Education.
  (2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.

(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.

(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.

(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on ***Postsecondary***~~[Higher]~~ Education.
    (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 28. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***~~[Higher]~~ Education~~[(The state universities and colleges shall report through the Council on Higher Education)]~~;
(2) Department of Military Affairs;
(3) Department of Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs; and
(7) Coal Marketing and Export Council.

Section 29. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***~~[of higher education]~~ pertaining to students attending or applicants to ***the***~~[such]~~ institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

  (a) Commercial enterprises;

  (b) Retail businesses;

  (c) Service businesses;

  (d) Industry;

  (e) Consumers of a product or service; or

  (f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 30. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

  (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

  (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

  (c) Members of boards and commissions;

  (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

  (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

  (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

  (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

  (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;[~~ and~~]

(z) Employees of the Kentucky Peace Corps***; and***

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided ***in KRS 18A.005 to 18A.200***[~~herein~~].

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 18 of this Act; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 31. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Community and Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 32. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Community and Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 33. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,[~~ and~~] Eastern Kentucky University***, and the Kentucky Community and Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

 (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

 (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 34. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

 (b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of

the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;[~~ and~~]
9. Eastern Kentucky University***; and***
10. Kentucky Community and Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and
(b) Structure of the bond issue; and
(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 35. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state[~~ colleges or~~] universities ***and the Kentucky Community and Technical College System*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state[~~ college or of the~~] university ***or the Kentucky Community and Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 36. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***[~~Higher~~] Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);[~~ and~~]

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 37. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

   (a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

   (b) The state budget director or his designee;

   (c) The commissioner of the Department of Information Systems;

   (d) The State Librarian or his designee;

   (e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

   (f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

   (g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

   (h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

   (i) The executive director of the Kentucky Authority for Educational Television;

   (j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

   (k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

   (a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 38. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The chief state school officer or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) The executive director of the Public Service Commission or his designee;

(k) One (1) representative of local governments to be appointed by the Governor; and

(l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 39. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;

16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 40. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,~~[and]~~ Murray State University***, and the Kentucky Community and Technical College System***, and members of the Kentucky Board of Education and the

Council on ***Postsecondary***[~~Higher~~] Education shall not be removed except for cause.

Section 41. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

- (a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;
- (b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;
- (c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;
- (d) Two (2) fire chiefs of paid fire departments;
- (e) One (1) licensed physician;
- (f) Two (2) fire chiefs of volunteer fire departments;
- (g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Community and Technical College System***[~~Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet~~];
- (h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;
- (i) One (1) mayor of a Kentucky city;
- (j) One (1) county judge/executive;
- (k) One (1) representative of Kentucky industry or business enterprise; and
- (l) One (1) representative of the general public.

The ***chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System***[~~commissioner of the Department for Adult and Technical Education~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions[~~ hereunder~~].

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 42. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered***:***[~~;~~]

- (a) At a receiving track;
- (b) At a simulcast facility;
- (c) On telephone account wagering; or
- (d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***[~~;~~]

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 43. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***~~[herein]~~.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of~~[nondegree programs in post-secondary and vocational technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools,]~~ state-operated ***secondary*** area vocational education ***and technology*** centers~~[, state technical institutes, and technology centers]~~. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***~~[Kentucky Board of Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education]~~. ***In addition to direct***

appropriations, funds appropriated to support the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching ***specialties***[~~specialities~~]. Such agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***[~~45~~]. All such agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 44. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.[~~ The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.~~]

(2) There is hereby created a Division of ***Administrative***[~~Federal Programs and Support~~] Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***[~~the Kentucky Tech System~~] within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***[~~vocational technical schools and~~] area ***vocational education and technology*** centers[~~ known as the Kentucky Tech System~~]. The office shall be composed of the Division of School ***Management***[~~Operations~~], the Division of ***Curriculum Services***[~~Program Management~~], an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 45. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the ***state-operated area vocational education and technology centers***[~~Kentucky Tech System~~] school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for

Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 18 of this Act; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 46. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***[~~schools~~] shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 47. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Community and Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Community and Technical College System***[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.~~]

Section 48. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 49. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Community and Technical College System and other postsecondary institutions*** when feasible. No public institution of higher education[~~, including the community colleges,~~] shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the ***review***[~~consent~~] of the[~~ State~~] board ***of regents*** for ***the Kentucky Community***[~~Adult~~] and Technical ***College System and the approval of the Council on Postsecondary*** Education. The[~~ State~~] board ***of regents*** for ***the Kentucky Community***[~~Adult~~] and Technical ***College System***[~~Education~~], with approval of the Council on ***Postsecondary***[~~Higher~~] Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 50. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***[~~vocational-technical schools and~~] area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for[~~ postsecondary pupils and~~] adults who are enrolled ***in secondary programs*** in the state***-*** operated[~~ vocational-technical schools and~~] area vocational education ***and technology*** centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System***.[~~ The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.~~]

Section 51. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***[~~vocational-technical schools~~] and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***[~~state vocational-technical~~] schools ***under its jurisdiction***[~~and area vocational education centers~~]. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the

commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary[~~ and postsecondary~~] students[~~ and adults~~], the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 52. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to, the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) [~~The commissioner of the Department for Technical Education;~~

~~(g)~~]The commissioner of the Department for Adult Education and Literacy;

(g)[~~(h)~~] The commissioner of the Department for the Blind;

(h)[~~(i)~~] The ***two (2) chancellors***[~~chancellor~~] of the[~~ University of~~] Kentucky Community ***and Technical*** College System;

(i)[~~(j)~~] A representative from the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(j)[~~(k)~~] A representative from the Kentucky Chamber of Commerce; and

(k)[~~(l)~~] Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 53. KRS 151B.410 is amended to read as follows:

(1) The Department for Adult Education and Literacy shall administer an adult education learning system in regions of the state. The adult education learning system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to life-long learning.

(a) Services shall be provided at multiple sites appropriate for adult learning including vocational and technical schools,[~~ University of Kentucky~~] community colleges, regional universities,[~~ and~~] adult ***education centers,***[~~and~~] family resource centers, adult correctional facilities, and other institutions.

(b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.

(c) Multiple funding sources, program support, and partnerships to administer the adult education learning system may include: the Adult Education Act as amended by the National Literacy Act; Kentucky Education Reform Act funded family resource centers; Job Training Partnership Act; Kentucky Bluegrass State Skills Corporation, Job Opportunities and Basic Skills program; adult technical education;[~~ University of Kentucky~~] community college system; Parent and Child Education programs; student scholarship and grants; fees for services rendered; and other general, agency, local, federal, and private funds.

(2) Services included as part of the adult education learning system shall include, but not be limited to:

(a) Functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computating, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills;

(b) Literacy and adult basic education which includes learning for those with academic educational skills below the ninth grade level;

(c) Adult secondary education that includes learning above the ninth grade level including GED preparation and the external diploma program, that is a competency-based assessment system which credentials mature adults who have acquired high school level skills through life experiences;

(d) Family literacy programs, that have a goal of intergenerational transfer of cognitive skills, support of children's education, participation in Kentucky Education Reform Act and breaking the poverty cycle, by offering basic skills and competencies with parenting, life skills, and parent-child interactive activities; and

(e) English as a second language programs for adults who have limited English proficiency.

(3) (a) The Department for Adult Education and Literacy within the Cabinet for Workforce Development may establish regional adult education advisory committees, representing adult education practitioners, state vocational technical and[~~ University of Kentucky~~] community college educators, employment and career advisors, business and industry participants, employees, students, and organized labor.

(b) The adult education advisory committees shall meet at least twice a year to:

1. Advise the Department for Adult Education and Literacy on the regional training services and needs in the area of adult education and functionally-contexted workplace essential skills;

2. Report the number and location of referral and access points that have identified an adult population who is or could benefit from service and has an active interest in participation;

3. Report the number and location of entrance points that have identified an adult population who has been

referred for service; and

4. Report the number of adults served and the number completing programs, method of payment for services, outcomes of service provision, and career and employment change following program completion.

(4) In administering an adult education system, the Department for Adult Education and Literacy shall:

(a) Establish regions for purpose of implementing an adult education learning system assisting local programs;

(b) Make provision for quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including GED preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

(c) Develop student assessments in coordination with other educational and employment entities, allowing assessments to be shared when necessary with appropriate personnel for accessing students, additional educational programs, taking into consideration student confidentiality;

(d) Establish professional credentials for instructors, and make provision for the development of those providers who have not attained the established credentials;

(e) Develop criteria for certifying adult education providers;

(f) Develop administrative regulations for consideration by the Cabinet for Workforce Development and the State Board for Adult and Technical Education, including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;

(g) Require and monitor compliance with Cabinet for Workforce Development administrative regulations and policies; and

(h) Develop and implement performance measures and benchmarks.

Section 54. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***~~[chairman]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Cabinet for Workforce Development and the ***president***~~[chancellor]~~ of the~~[University of]~~ Kentucky Community ***and Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its

expense, in the amount and with the surety as the board may prescribe.

Section 55. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B,[~~ on or before January 1, 1995,~~] the University of Kentucky, Eastern Kentucky University, Morehead State University, ***and*** the ***Kentucky*** Community ***and Technical*** College System[~~ of the University of Kentucky, and the Kentucky Tech System~~] in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) No state agency provider of workforce training shall reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 56. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 57. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education, Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed

for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

  (a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

  (b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

  (c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

  (d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

  (e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

  (f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 58. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 59. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

  (a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

  (b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

  (c) The chairman of the Kentucky Board of Education;

  (d) The commissioner of the Department of Education;

  (e) The chairman of the State Board for Adult and Technical Education;

  (f) The secretary of the Cabinet for Workforce Development;[~~ and~~]

  (g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

  (h) The president of the Kentucky Community and Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 60. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***[~~Higher~~] Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***[~~Higher~~] Education and the Department of Education. A director and other

appropriate staff shall be hired by the commission when federal funds become available.

Section 61. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***~~[Higher]~~ Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 62. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***~~[Higher]~~ Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 63. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***~~[Higher]~~ Education for educational institutions under their jurisdiction. ***The***~~[Such]~~ rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing; and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 64. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***~~[Higher]~~ Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 65. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 66. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education[~~ no later than December 1, 1993,~~] that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 67. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community[~~ or junior~~] colleges established under the control of these universities***, and the Kentucky Community and Technical College System and any community colleges or technical institutions established under its control***;

(c) ***State-operated secondary***[~~State and~~] area vocational ***education or area technology centers***[~~schools~~], Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

(l) The Department of Vocational Rehabilitation;

(m) The Kentucky Educational Collaborative for State Agency Children;

(n) The Governor's Scholars Program; and

(o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 68. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions[~~ of higher education~~] who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***[~~pursuant to~~] KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions[~~ of higher education~~];

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions[~~ of higher education~~]; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 69. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions[~~ of higher education~~] identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution[~~ of higher education~~] which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 70. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution[~~ of higher education~~], the Council on ***Postsecondary***[~~Higher~~] Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***[~~Higher~~] Education Student Advisory Committee;
3. Associations representing faculty from universities and community colleges;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on ***Postsecondary***[~~Higher~~] Education pursuant to KRS 164.011, except ***for*** the ***four (4) members of the Kentucky Community and Technical College System who shall be nominated by the board of trustees of the University of Kentucky under Section 96 of this Act***[~~student member~~]. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***[~~Higher~~] Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 71. KRS 164.0053 is amended to read as follows:

(1) No appointing authority shall appoint himself or his spouse, or the Governor or his spouse***,*** to a[~~ university~~] governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***[~~Higher~~] Education created pursuant to KRS 164.011.

(2) No full-time employee of a public institution of ***postsecondary***[~~higher~~] education shall be eligible to serve on the Council on ***Postsecondary***[~~Higher~~] Education or on the governing board of another institution of ***postsecondary***[~~higher~~]

education, except the community ***and technical*** college faculty ***and nonteaching personnel***[~~representative~~] serving on the ***board of regents for the Kentucky Community and Technical College System***[~~University of Kentucky Board of Trustees~~].

(3) ***No postsecondary institution shall award an honorary degree to a sitting governor.***

(4) All[~~ university~~] governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***[~~Higher~~] Education shall have no conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 72. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***[~~shall be~~] a Council on ***Postsecondary***[~~Higher~~] Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***fifteen (15) voting***[~~the chief state school officer, and seventeen (17) lay~~] members appointed by the Governor ***with the consent of the Senate and the House of Representatives under KRS 11.160, and the commissioner of education, who shall serve as a nonvoting ex officio member. Appointive council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 70 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly***[~~: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member~~].

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 70 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation, assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect the minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve. One (1) member shall be a full-time faculty member employed at a state public institution of higher education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by majority vote of the ten (10) faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) four-year state public institutions of higher education and the community college system. One (1) member***[~~ The student member~~] shall be enrolled as a full-time student at a state public institution of higher education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions of higher education and one (1) representative of the community college student body presidents elected from among themselves, shall elect by majority vote of the nine (9) presidents three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments***[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each appointive member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

(a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one (1) of which shall be the student member~~];

(b) ***Four (4) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];

(c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];

(d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];

(e) ***Two (2) appointments shall expire December 31, 2001***[~~Three (3) members shall serve five (5) year terms~~]; and

(f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) ***The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 73. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) ***Develop and implement the state strategic postsecondary education agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;***

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 83 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Community and Technical College System. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11) (a)[~~(5)~~] ***Except as provided in paragraph (b) of this subsection,*** review and approve all capital construction projects ***covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.***

(b) Any county which on January 1, 1997, had an organized group to establish a community college satellite as a branch of an existing community college, and had substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, is authorized to begin construction of the satellite on or after January 1, 1998.

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the[~~ University of~~] Kentucky Community ***and Technical*** College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~ or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or***

associate degree programs of a vocational-technical and occupational nature.

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;

(b) Alignment with the priorities in the state strategic postsecondary education agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions ***that comply with the standards for teacher certification established by the Education Professional Standards Board pursuant to Section 65 of this Act;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment***;***[~~.~~]

(22)[~~(13)~~] ***Maintain***[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[~~ after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee***;***[~~.~~]

(23)[~~(14)~~] Monitor and ***transmit a*** report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee***;***[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state ***postsecondary educational*** institution[~~ of higher education~~] a comprehensive orientation program ***for new members of the council and the***[~~to be carried out by the respective institution for newly appointed~~] governing ***boards***[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning ***the roles of the council, the Strategic Committee on Postsecondary Education, the state strategic postsecondary education agenda and the implementation plan, and*** the respective institution's mission, budget, plans, policies, strengths, and weaknesses***;***[~~.~~]

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit coursework in the state-supported postsecondary education system; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 74. KRS 164.0205 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall promote, support, and assist in the program created in KRS 158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 75. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning ***and the president of the Kentucky Community and Technical College System*** shall serve on an advisory conference for the Council on ***Postsecondary***[~~Higher~~] Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on ***Postsecondary***[~~Higher~~] Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on ***Postsecondary***[~~Higher~~] Education will meet with the Advisory Conference of Presidents.

Section 76. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***[~~Higher~~] Education shall pay to the college not more than two hundred dollars ($200) per school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 77. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 78. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 79. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 80. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees and qualifications for admission to and reports from their respective institutions.

Section 81. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty-five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 82. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 83. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

  (a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

  (b) "Institution" means public universities, their subdivisions, and the[~~ University of~~] Kentucky Community ***and Technical*** College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this***

Act~~[standards]~~. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***~~[through a collaborative effort involving]~~ the ***postsecondary educational***~~[higher education]~~ institutions and the Council on ***Postsecondary***~~[Higher]~~ Education.

(3) The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:

(a) Educational quality and educational outcomes;

(b) Student progress in the postsecondary system;

(c) Research and service activities;

(d) Use of resources;

(e) Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and

(f) Other indicators as deemed appropriate by the Council on Postsecondary Education.

(4) The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions~~[The accountability process shall be implemented in phases as follows:~~

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry-level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program]~~.

(5) ~~[(b) Beginning December 1, 1993,]~~The Council on ***Postsecondary***~~[Higher]~~ Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 84. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions~~[of higher education]~~ in the state;

(c) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs~~[and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution]~~.

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 85. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 73 of this Act, as a condition of their appointment.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky,~~[one (1) member of the teaching faculty of the community college system,]~~ and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3)~~[(a)]~~ The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified.

Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

[~~(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.~~]

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) No member of the board shall serve more than two (2) consecutive terms.

Section 86. KRS 164.150 is amended to read as follows:

No member of a governing board of a public institution of ***postsecondary***[~~higher~~] education shall be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 87. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 139 of this Act and KRS 45.750(1)(f)*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 88. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher learning~~] in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***[~~Higher~~] Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~of higher education~~] in Kentucky.

Section 89. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions[~~of higher learning~~] is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 90. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution[~~of higher education~~] is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 91. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of higher education including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 92. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 93. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~] Education may have a faculty member as a voting member of its board of trustees or regents.

Section 94. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees***,*** and programs beyond the masters-degree level to meet the requirements for teachers, school leaders***,*** and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the[

~~University of~~] Kentucky Community ***and Technical*** College System, as provided ***in Section 110 of this Act***[~~by this chapter~~].

Section 95. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Community and Technical College System***[~~(or College)~~].

Section 96. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Community and Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body.

1. Four (4) members shall be appointed by the Governor from three (3) nominations for each of four (4) appointments, recommended by the board of trustees of the University of Kentucky. The Governor may request additional nominations at his discretion.

2. Four (4) members shall be appointed by the Governor from nominations by the Governor's Postsecondary Nominating Committee, under Section 70 of this Act.

No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Community and Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~ a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

No member of a board of regents shall be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for ***the*** original election.

(b) The faculty members of the Kentucky Community and Technical College System shall be represented by one

(1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representatives of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 73 of this Act, as a condition of their appointment.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Community and Technical College System shall be appointed by July 31, 1997.

Section 97. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the ***appropriate institution***[~~university or college~~].

Section 98. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities and ***of the Kentucky Community and Technical College System***[~~state colleges~~], no person who is a member of either house of the Kentucky General Assembly shall serve as a member of the board of trustees or board of regents of any state-supported ***institution***[~~college or university~~].

Section 99. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the ***institution***[~~university or college~~] or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 100. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and ***the Kentucky Community and Technical College System***[~~colleges~~] is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a)[~~(1)~~] Receive grants of money and expend the same for the use and benefit of the university or college;

(b)[~~(2)~~] Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;

(c)[~~(3)~~]Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;

(d)[~~(4)~~] Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and

(e)[~~(5)~~]Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system. The guidelines pertaining to community colleges shall define the processes for review and approval by the boards of directors for the community colleges;

(b) Adopt a consolidated budget request upon the recommendation of the chancellors of the branches and president of the system for submission to the Council on Postsecondary Education for approval;

(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and

(d) Consider recommendations from the boards of directors of the community colleges to improve the overall budget planning and allocation processes.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted long-term and biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.

Section 101. KRS 164.351 is amended to read as follows:

(1) State colleges and universities ***and the Kentucky Community and Technical College System*** shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state ***technical institution, community*** college, or university shall inform students of the name and telephone number of a ***technical institution, community college,*** college, or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 102. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state-supported institution of ***postsecondary education***[~~higher learning~~] provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 103. KRS 164.360 is amended to read as follows:

(1) ***(a)*** Each board of regents ***for the universities*** may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Community and Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or ***Kentucky Community and Technical College System***[~~college~~], and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 104. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University ***and the Kentucky Community and Technical College System***, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Community and Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.

Section 105. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Community and Technical College System*** shall establish such incidental fees and nonresident tuition fees as will be sufficient for the purpose of paying the incidental expenses of the university or college and as are consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. No money derived from nonresident tuition or other fees paid by students shall be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 106. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 139 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase***,*** and hold property ***under Section 139 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 139 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 107. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount***,*** and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 108. KRS 164.4781 is amended to read as follows:

[~~By the beginning of the 1986-87 school year, ~~]There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***[~~Higher~~] Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.[~~ By the beginning of the 1987-88 school year,~~] The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 109. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***[~~Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races~~].

Section 110. KRS 164.580 is amended to read as follows:

(1) The[~~ University of~~] Kentucky Community ***and Technical*** College System is established. ***The Kentucky Community and Technical College System***[~~Each community college~~] shall provide:

(a)[~~(1)~~] A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;

(b)[~~(2)~~] Technical and semiprofessional programs of two (2) years or less;[~~ and~~]

(c)[~~(3)~~]Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented***; and***

(d) Services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state.

(2) The Kentucky Community and Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever- changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) Students attending the University of Kentucky Community College System Branch under the administration of the board of regents for the Kentucky Community and Technical College System may pursue three (3) kinds of degree programs:

(a) Associate degree programs that were previously approved by the University of Kentucky board of trustees

before the establishment of the Kentucky Community and Technical College System but that are now under the academic control of the University of Kentucky Community College System Branch and board of regents. These programs shall be periodically reviewed by a process established by the University of Kentucky board of trustees. A report shall be forwarded to the chancellor of the branch, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The University of Kentucky board of trustees shall confer degrees and award diplomas for these programs;

(b) Associate degree programs that are developed by the Kentucky Community and Technical College System and approved by the board of regents and the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for the approved programs; and

(c) Joint degree programs that are developed between the University of Kentucky Community College System Branch and the Technical Institutions' Branch or other institutions.

(4) The board of regents for the Kentucky Community and Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(5) Each community college shall have the primary responsibility through its faculty senate and governance structure for determining academic policy and programs that shall be recommended through the chancellor to the president of the Kentucky Community and Technical College System and to the board of regents for approval.

(6) The Technical Institutions' Branch through its faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

Section 111. KRS 164.583 is amended to read as follows:

(1) Each community college of the[~~ University of~~] Kentucky Community ***and Technical*** College System may offer, within the two (2) year academic curriculum of the college, any and all lower division academic courses offered for undergraduate credit at any and all of the four (4) year state-supported colleges and universities.

(2) All lower division academic courses offered by the community colleges shall be transferable for academic credit to any and all four (4) year state-supported colleges and universities, regardless of the number of academic credits earned by any student at one (1) or more community college.

(3) Nothing ***in this section***[~~herein~~] shall be construed or interpreted to change, reduce, or otherwise affect the required distribution between lower division and upper division courses now required for matriculation in an undergraduate program at any institution of higher education.

Section 112. KRS 164.591 is amended to read as follows:

A community college ***or extension of a community college*** shall be maintained in each of the following locations: Ashland, Carrollton, Cumberland, Elizabethtown, Glasgow, Henderson, Hopkinsville, Madisonville, Owensboro, ***Paducah,*** Prestonsburg, Somerset, Blackey-Hazard, Jefferson County and Mason County. ***The University of Kentucky may continue to operate a community college in Lexington, and Western Kentucky University may continue to operate a community college in Bowling Green. Additional extension centers may be established by the board of regents for the Kentucky Community and Technical College System with approval of the Council on Postsecondary Education. New community colleges shall require approval of the General Assembly.***

Section 113. KRS 164.593 is amended to read as follows:

(1) The board of ***regents for the Kentucky Community and Technical College System shall recognize previous actions under prior law.***

(2) [~~trustees of the University of Kentucky, (herein called board) may include~~]Paducah Junior College ***may be included*** in the system provided for by KRS 164.580 upon the concurrence of the board and the board of trustees of Paducah Junior College. Following the concurrence of the two (2) boards***,*** an agreement shall be executed between the board and the board of trustees providing for the conversion of the existing facilities of Paducah Junior College and containing other provisions the parties deem appropriate and desirable. ***Notwithstanding the provisions of subsection (1) of this section, the Kentucky Community and Technical College System shall become the legal successor in interest to the University of Kentucky for any agreement executed according to the provisions of this subsection prior to the effective date of this Act.***

(3)[~~(2)~~] The agreement required by subsection ***(2)***[~~(1)~~] may provide for the transfer to the board of any funds accruing to Paducah Junior College as the result of any contract or agreement with any agency or instrumentality of the United States or the Commonwealth of Kentucky including any funds accruing pursuant to KRS 164.027.

(4)~~[(3)]~~ Upon the execution of the agreement required by subsection ***(2)***~~[(1)]~~, any taxes levied under KRS 165.170 or 165.175 and paid to the trustees shall continue to be received by the board of trustees of Paducah Junior College. However, the trustees may in the agreement~~[,]~~ provide for the expenditure of the taxes levied for such purposes as the trustees and the board may mutually agree.

Section 114. KRS 164.594 is amended to read as follows:

(1) The community college in the Big Sandy Valley is designated as Prestonsburg Community College. The service area of Prestonsburg Community College shall include Pike County in its entirety.

(2) Course offerings in Pike County shall be expanded as necessary, to respond more fully to the higher and adult educational needs of the citizens of the area.

(3) The~~[University of]~~ Kentucky Community ***and Technical*** College System may use private or state funds to purchase, renovate, and otherwise make available physical facilities in the Pike County area conducive to educational purposes.

Section 115. KRS 164.595 is amended to read as follows:

(1) The board ***of regents for the Kentucky Community and Technical College System***~~[has the same powers with respect to the community colleges that it has as to the University of Kentucky in general. The board]~~ shall designate each community college with a name that includes the words "Community College."

(2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction or operation of community colleges. The board may commemorate donations from private persons or corporations with suitable memorials.

(3) The board may accept federal grants to be used in the acquisition, construction, or operation of community colleges.

Section 116. KRS 164.597 is amended to read as follows:

~~[Upon prior concurrence of the board of trustees of the University of Kentucky and the board of regents of the Northern Kentucky University,]~~The Northern Community College at Covington shall be operated by the board of regents of the Northern Kentucky University and shall ***not***~~[no longer]~~ be considered part of the~~[University of]~~ Kentucky Community ***and Technical*** College System. The board of regents of the Northern Kentucky University shall provide programs of a community college nature at Northern Community College at Covington comparable to those ***community colleges that make up the Kentucky Community and Technical College System***~~[listed for the University of Kentucky community college system, as provided in this chapter]~~.

Section 117. KRS 164.600 is amended to read as follows:

(1) There shall be a~~[local advisory]~~ board ***of directors*** for each community college ***under the Kentucky Community and Technical College System***, except as provided in KRS 165.160. Each~~[local advisory]~~ board ***of directors*** shall***:***

(a) Select and recommend the candidate for the community college president from three (3) candidates nominated by the chancellor of the community college system. The chancellor shall make the final appointment;

(b) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

(c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

(d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;

(e) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education~~[serve in an advisory capacity to the board and the head of the community college on the operation of the community college]~~.

(2) ***The president of each community college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under Section 100 of this Act.***

(3) Each~~[local advisory]~~ board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)~~[local advisory]~~ board members shall be one (1) member of the teaching faculty and one (1) member of the student body.~~[After July 13, 1990,]~~ An appointed member's term ***shall be***~~[is]~~ six (6) years~~[; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years]~~.

(4)~~[(3)]~~ The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the~~[local advisory]~~ boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5)[~~(4)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6)[~~(5)~~] ***The***[~~Local advisory board~~] members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

(7) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

Section 118. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational.expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Community and Technical System***[~~State Board for Adult and Technical Education~~] and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 119. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

  (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

  (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

  (a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

  (b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 120. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

  (a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

  (b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

  (c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders

to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 121. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***~~[Higher]~~ Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent~~[nonprofit]~~ college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 122:. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

 (a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

 (b) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 123. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

 (a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate degree programs of instruction;

 (b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;

 (c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 124. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

 (a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 73 of this Act as a prerequisite to their appointment.

 (b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

 (c) No appointed member shall serve more than two (2) consecutive terms.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 125. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***[~~such~~] removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***[~~such~~] other officers as it deems wise, including the annual election of a ***six (6)***[~~five (5)~~] member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***[~~such~~] rules[~~ as~~] the board shall establish under its authority to make [~~such ~~]bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of[~~ such~~] reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be

held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 126. KRS 164.915 is amended to read as follows:

The[~~By July 1, 1991, the~~] Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***[~~Higher~~] Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 127. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on ***Postsecondary***[~~Higher~~] Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 128. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***[~~Higher~~] Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***[~~Higher~~] Education using the following criteria:

  (a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

  (b) The scope and volume of patient care;

  (c) The amount of available physical facilities;

  (d) The current number and types of residency positions offered at each university;

  (e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

  (f) The extent of involvement in education in primary care in ambulatory care settings; and

  (g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***[~~Higher~~] Education.

Section 129. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall coordinate the activities of the participating institutions, as described in KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 130. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***[~~Higher~~] Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 131. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***[~~herein~~] shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers***,*** or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 132. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

  (a) Irregularity and impairment in communication;

  (b) Engagement in repetitive activity and stereotyped movement;

  (c) Resistance to environmental change or change in daily routine; and

  (d) Unusual responses to sensory experience.

  The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 133. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky is authorized to operate a state autism training center, including:

  (a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;

  (b) The construction of necessary buildings;

  (c) The expansion, remodeling, altering, or equipping of necessary buildings; and

(d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 134. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 135. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions~~[of higher education]~~ in Kentucky recognized in KRS 164.100, 164.290, ***Section 110 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 136. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***~~[public]~~ institutions~~[of higher education]~~ electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

(a) The treasurer of the ***institution***~~[university]~~ shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

(b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 137. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***~~[university]~~ making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

(a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

(b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

(c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

(d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

(e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);

2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and

3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such

funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***[~~Higher~~] Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Section 138. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***[~~university~~] making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, and members of the governing board.

Section 139. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
   (a) Contractual services where no competition exists[~~, such as telephone service, electrical energy, and other public utility services~~];
   (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
   (c) Instructional materials available from only one (1) source;
   (d) Where rates are fixed by law or ordinance;
   (e) Library books;
   (f) Commercial items that are purchased for resale;
   (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
   (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
   (i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or ***lessor***[~~leasor~~] approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 140. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***[~~Higher~~] Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 141. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Community and Technical College System***~~[, but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council]~~;

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 142. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***~~[Higher]~~ Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 143. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 144. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***[~~Higher~~] Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 145. KRS 332.110 is amended to read as follows:

(1) This chapter shall not apply to any school or educational institution which offers to full-time, regularly enrolled students as a part of its curriculum a course in driving instruction nor to automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles nor to employers who give instruction without charge to their employees.

(2) This chapter shall not apply to any college within the ***Kentucky Community and Technical College System***[~~University of Kentucky community college system~~] which offers to part-time students a course in drivers instruction where there is no school licensed pursuant to this chapter in the county.

Section 146. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***chancellor for the Technical Institutions' Branch in the Kentucky Community and Technical College System***[~~state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education~~] shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 147. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes

employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on ***Postsecondary***[~~Higher~~] Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 148. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.
164.575 Definition for KRS 164.575 to 164.600.
164.582 Definition for KRS 164.583.
186.1865 Special Kentucky Tech license plates.

Section 149. Whereas it is critical that an orderly transfer be made to establish the Kentucky Community and Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Chancellor of the University of Kentucky Community College, the Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for each system, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, operations, management, and support of the University of Kentucky Community College System, and other funds designated for these purposes, and transfer of the personnel and funds to the new systems shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources within the agencies described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Community and Technical College System is employed by the board of regents for the Kentucky Community and Technical College System.

Section 150. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 151. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Education reported **HJR 6** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 6, A JOINT RESOLUTION directing the Council on Higher Education or its successor to review the policies of higher education institutions for identification and placement of students in remedial and developmental courses and make a recommendation for establishing a statewide standard.

WHEREAS, higher education institutions in Kentucky have established different criteria for placing students in remediation; and

WHEREAS, it is important for students to have the skills to successfully complete college work; and

WHEREAS, students who receive remedial assistance and other support services are competitive and pass entry level courses in English and mathematics at the same or at a higher rate than students who did not receive these services; and

WHEREAS, only 37% of the first-time, full-time degree-seeking freshmen in 1989 graduated from Kentucky's four-year institutions within six (6) years; and

WHEREAS, Kentucky is far behind the national average in the number of degrees awarded at all levels; and

WHEREAS, Kentucky's economic future depends upon a well educated population;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Council on Higher Education or its successor shall review the policies of higher education institutions for identification and placement of students in remedial and developmental courses and make a recommendation for establishing a statewide standard.

Section 2. The Council on Higher Education or its successor shall submit the report of its study and its recommendations to the Governor and to the Legislative Research Commission for consideration by the Interim Joint Committee on Education no later than November 1, 1997.

Calendar

HB 2 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Anderson moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Anderson moved the adoption of the following **Legislative Citation No. 7**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends The Russell Independent Schools for fostering the outstanding academic achievement of its students by encouraging their participation in scholastic competitions throughout the state. The Academic Teams from both Russell High and Middle School competed in the prestigious 1997 State Governors Cup Competition, with the high school team placing first overall for the second consecutive year, finishing first in Future Problem Solving and third in Quick Recall; and with the middle school placing second overall, being named State Champions in Future Problem Solving and placing third in Quick Recall in junior division competition. The Russell High School Beta Club competed in and were named State Champions of the 1997 Beta Quiz Bowl Competition. The House of Representatives is pleased to join with Representative Hoby Anderson in commending this exemplary group of students for their outstanding academic performance and wishes for their continued scholastic success, and expresses its gratitude to all who have attended these young treasures of the Commonwealth. **Legislative Citation No. 7** was adopted without objection.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 3, by Representative Stumbo: AN ACT relating to post secondary education and declaring an emergency.

HR 10, by Representatives Damron and Barrows: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Robert Wilson, Sr.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Rules Report. Agreed.

Report of Committees (Cont.)

The Committee on Rules reported that **HB 1** and **HB 2** have been posted for passage in the Orders of the Day for May 16, 1997.

Floor Amendments (Cont.)

Floor Amendment No. 7 to the Committee Substitute No. 2 to **HB 1**, by Representative Mason:

On page 17, line 11, after "*(b)*", by adding "*1.*"; and

On page 17, line 14, after "*appropriate.*", by adding the following:

2. The first one (1) million dollars appropriated to the trust fund shall be allotted for the purpose of assisting current welfare recipients, individuals who have lost benefits pursuant to Public Law 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act, and individuals with disabilities who do not qualify for vocational rehabilitation services to obtain the skills necessary to transition to work. The Council on Postsecondary Education shall promulgate administrative regulations establishing the eligibility criteria for the program including the scholastic standing necessary to maintain eligibility for assistance.

3. "

Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 1**, by Representative Coleman:

On page 3, line 8, by deleting "***72***" and inserting in lieu thereof "***71***"; and
On page 9, line 14, by deleting "***73***" and inserting in lieu thereof "***72***"; and
On page 11, line 6, by deleting "***83***" and inserting in lieu thereof "***82***"; and
On page 22, line 8, by deleting "***67***" and inserting in lieu thereof "***66***"; and
On page 22, line 9, by deleting "***36***" and inserting in lieu thereof "***35***"; and
On page 25, by deleting lines 18 through 23 in their entirety, and by renumbering remaining sections accordingly; and
On page 108, line 25, by deleting "***96***" and inserting in lieu thereof "***95***"; and
On page 111, line 1, by deleting "***70***" and inserting in lieu thereof "***69***"; and
On page 111, line 10, by deleting "***70*** " and inserting in lieu thereof "***69***"; and
On page 114, line 14, by deleting "***83***" and inserting in lieu thereof "***82***"; and
On page 120, line 9, by deleting "***65***" and inserting in lieu thereof "***64***"; and
On page 130, line 3, by deleting "***73***" and inserting in lieu thereof "***72***"; and
On page 133, line 1, by deleting "***139***" and inserting in lieu thereof "***138***"; and
On page 137, line 4, by deleting "***110***" and inserting in lieu thereof "***109***"; and
On page 138, line 3, by deleting "***70***" and inserting in lieu thereof "***69***"; and
On page 141, line 24, by deleting "***73***" and inserting in lieu thereof "***72***"; and
On page 147, line 2, by deleting "***139***" and inserting in lieu thereof "***138***"; and
On page 147, line 4, by deleting "***139***" and inserting in lieu thereof "***138***"; and
On page 147, line 13, by deleting "***139***" and inserting in lieu thereof "***138***"; and
On page 155, line 21, by deleting "***100***" and inserting in lieu thereof "***99***"; and
On page 166, line 25, by deleting "***73***" and inserting in lieu thereof "***72***"; and
On page 177, line 14, by deleting "***110***" and inserting in lieu thereof "***109***".

Floor Amendment No. 9 to the Committee Substitute No. 2 **HB 1**, by Representative Gray:

On page 23, between lines 5 and 6, by inserting the following:

"***(3) (a) A faculty member or a staff employee of the Kentucky Community and Technical College System shall have a vested contract right to continued employment and shall be subject to termination or other disciplinary personnel action only upon occurrence of one (1) or more of the following:***

(1) Just cause for dismissal or other disciplinary personnel action; or

(2) Layoff of faculty or staff employed by the board due to a financial emergency.

(b) No administrator, faculty, or staff of the system shall be dismissed or penalized except for incompetence or neglect of or refusal to perform duties."; and

On page 25, line 5, after "***(6)***" by inserting:

"***(a) A faculty member or a staff employee of the Kentucky Community and Technical College System shall have a vested contract right to continued employment, subject to termination or other disciplinary action only upon occurrence of one (1) or more of the following:***

(1) Just cause for dismissal or other disciplinary personnel action; or

(2) Layoff of faculty or staff employed by the board due to a financial emergency.

(b) No administrator, faculty, or staff of the system shall be dismissed or penalized except for incompetence or neglect of or refusal to perform duties."

(7)"; and

On page 25, line 11, by deleting "***(7)***" and inserting in lieu thereof "***(8)***".

Floor Amendment No. 10 to the Committee Substitute No. 1 **HB 1**, by Representative Riner:

On page 108, line 19, after "~~[student member]~~.", by inserting the following: "***One (1) of the lists of three (3) nominations to the Council on Postsecondary Education shall contain names of three (3) persons who have served as a member of a community college advisory board.***"; and

On page 110, line 21, after "***member.***", by inserting the following: "***One (1) of the thirteen (13) appointive members shall be a person who has served as a member of a community college advisory board.***"

Floor Amendment No. 11 to the Committee Substitute No. 1 to **HB 1**, by Representative Riner:

On page 108, line 19, after "~~[student member]~~." by inserting the following: "***At least one (1) of the lists containing nominations for appointment to the Council on Postsecondary Education shall contain the names of three (3) persons who have served as members of a regional advisory board for the system of postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers formerly known as Kentucky Tech, or as members of an advisory council to an institution operating within that system.***"; and

On page 110, line 21, after "***member.***" by inserting the following: "***At least one (1) of the thirteen (13) appointive council members shall have served as a member of a regional advisory board for the system of postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers formerly known as Kentucky Tech, or as a member of an advisory council to an institution operating within that system.***".

Floor Amendment No. 12 to the Committee Substitute No. 2 **HB 1**, by Representative Rasche:

On page 120, Line 8 by deleting the first use of the word "***the***";

On Page 120, Line 8 by deleting the words, "***for teacher certification***".

Floor Amendment No. 13 to the Committee Substitute No. 2 to **HB 1**, by Representative Brandstetter:

On page 191, between lines 11 and 12, by inserting the following:

"Section 148. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, ***the Council on Postsecondary Education,*** and any other management personnel with procurement authority;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;
(b) The Lieutenant Governor;
(c) The Secretary of State;
(d) The Attorney General;
(e) The Treasurer;
(f) The Commissioner of Agriculture;
(g) The Superintendent of Public Instruction;
(h) The Auditor of Public Accounts;
(i) Each Railroad Commissioner; and
(j) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "State agency" means every state office, department, division, board, commission, institution, public corporation, and authority within the executive branch;

(11) "Lobbyist" means any person employed as a legislative agent or legislative counsel to promote, oppose, or act with reference to any legislation which affects, or may affect, private pecuniary interests, as distinct from those of the whole people;

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts with reference to legislative action; and

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (i) of this section."; and

By renumbering the remaining sections accordingly.

Floor Amendment No. 14 to the Committee Substitute No. 2 to **HB 1**, by Representative Crall:

On page 3, lines 2 and 3, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 3, line 5, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 3, line 15, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 3, line 16, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 3, line 22 through 25, by deleting the lines in their entirety and inserting the following in lieu thereof "***(b) The community colleges, except the Lexington Community College, formerly known as the University of Kentucky Community College System.***"

On page 3, line 27, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 4, lines 15 and 16, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 13, line 1, by deleting "***Community and Technical College System***" and inserting in lieu thereof "***Community College and Technical Institute System***";

On page 15, lines 26 and 27, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 16, line 13, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 16, lines 25 and 26, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 17, line 12, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 19, line 6, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 19, line 8, after "***Branch***", by deleting "***, except that the present chancellor of***" and inserting "***.***" in lieu thereof;

On page 19, lines 9 through 11, by deleting the lines in their entirety;

On page 19, line 12, after the first "***a***" by inserting "***national***";

On page 19, line 15, by deleting "***composed of equal***" and inserting in lieu thereof "***or consulting firm selected by the president.***";

On page 19, lines 16 and 17, by deleting the lines in their entirety;

On page 20, line 16, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 20, line 25, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 21, lines 2 and 3, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 21, lines 4 and 5, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 21, lines 8 and 9, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 21, lines 12 and 13, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 21, lines 19 and 20, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 22, line 25, by deleting "***Kentucky Community and Technical College***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute***";

On page 23, lines 3 and 4, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 23, line 8, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 23, lines 17 and 18, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 23, lines 23 and 24, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 24, lines 25 and 26, by deleting "***Kentucky Community and Technical College***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute***";

On page 25, lines 3 and 4, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 25, line 11 through 17, by deleting the lines in their entirety;

On page 25, line 20, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 25, line 27, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 26, lines 17 and 18, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 27, line 12, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 27, lines 14 and 15, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 27, line 20, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 27, line 26, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 28, line 1, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 42, lines 2 and 3, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 42, line 5, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 42, lines 10 and 11, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 42, line 18, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 43, lines 18 and 19, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 44, line 16, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 46, line 13, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 47, lines 10 and 11, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 47, line 15, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 48, line 26, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 58, line 4, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 58, line 26, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 59, lines 8 and 9, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 70, lines 8 and 9, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 70, line 11, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 70, lines 16 and 17, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 74, lines 9 and 10, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 74, lines 13 and 14, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 75, line 17, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 75, line 21, after "***Community***", by inserting the word "***College***";

On page 75, line 21, after "Technical" by deleting "***College System***" and inserting "***Institute System***" in lieu thereof;

On page 75, line 23, after "***Community***", by inserting the word "***College***";

On page 75, line 23, after "Technical" by deleting "***College System***" and inserting "***Institute System***" in lieu thereof;

On page 76, line 7, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 76, lines 10 and 11, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 79, line 23, by deleting all new language and inserting after "College" the phrase "***and Technical Institute***";

On page 84, line 9, by deleting all new language and inserting after "College" the phrase "***and Technical Institute***";

On page 85, line 16, by deleting "***and Technical***" and inserting after "College", the phrase "***and Technical Institute***";

On page 90, line 14, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 100, line 16, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 108, lines 23 through 25, by deleting all new language and removing brackets and strikethroughs;

On page 110, line 9, by deleting "***Community and Technical College System***" and inserting in lieu thereof "***Community College and Technical Institute System***";

On page 114, line 20, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 115, line 22, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 115, line 26, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 117, lines 17 and 18, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 118, line 4, by deleting new language in its entirety;

On page 118, line 4, after "College" by inserting "***and Technical Institute***";

On page 118, line 17, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 123, line 1, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 126, line 13, by deleting all new language;

On page 126, line 13, after "College" by inserting "***and Technical Institute***";

On page 137, lines 3 and 4, by deleting "***and Technical***";

On page 137, line 4, after "College", by inserting "***and Technical Institute***";

On page 137, line 8, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 137, line 12, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 137, line 20, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 137, line 21, after the first "***of***" by deleting "***eight (8)***" and inserting in lieu thereof "***each president of the University of Kentucky, the University of Louisville, and the regional universities, or his designee, seven (7)***";

On page 137, lines 24 through 27, by deleting the lines in their entirety;

On page 138, line 1, by deleting "***2. Four (4) members***" and inserting in lieu thereof "***The appointed members***";

On page 138, line 10, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 138, line 13, by deleting "***Two (2) members***" and removing all brackets and strikethroughs from the line;

On page 139, lines 16 and 17, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 140, lines 13 and 14, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 141, line 13, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 142, line 2, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 142, lines 18 and 19, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 143, lines 6 and 7, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 144, line 1, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 144, lines 19 and 20, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 145, lines 12 and 13, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 145, lines 20 and 21, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 146 line 12, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 146, lines 20 and 21, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 149, line 6, by deleting "***and Technical***";

On page 149, line 6, by inserting after "College" the phrase "***and Technical Institute***";

On page 149, line 7, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 149, line 19, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 150, line 16, after "***(3)***", by deleting all new language and inserting in lieu thereof the following:

"***The board of regents shall collaborate and develop joint programs with the other members of the postsecondary education system.***

(4) The board of regents shall award and confer associate degrees, technical degrees, diplomas, and certificates for programs in the system; however, a student enrolled in the community college branch may elect to receive an associate degree from the University of Kentucky, the University of Louisville, or one (1) of the regional universities if the university offers a program that is substantially similar to the program offered at the community college in which the student is enrolled.

(5) The board of regents shall negotiate with the state universities on the feasibility of extending the rights and privileges the universities guarantee or grant their students to the students in the community college branch of the Kentucky Community College and Technical Institute System. The rights and privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award contest, and the universities' scholarship programs."

On page 150, lines 17 through 27, by deleting the lines in their entirety;

On page 151, lines 1 through 13, by deleting the lines in their entirety;

On page 151, line 14, by deleting "***(4)***" and inserting in lieu thereof "***(6)***";

On page 151, line 14, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 151, lines 17 through 26, by deleting all language in its entirety;

On page 152, line 1 by deleting "***and Technical***";

On page 152, line 2, after "College", by inserting "***and Technical Institute***";

On page 152, lines 20 and 21, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 152, line 25, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 153, lines 7 and 8, by deleting by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 153, line 27, by deleting the new language in its entirety;

On page 153, line 27, after "College" by inserting "***and Technical Institute***";

On page 154, lines 4 and 5, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 154, line 19, by deleting the new language in its entirety;

On page 154, line 19, after "College" by inserting "***and Technical Institute***";

On page 154, line 22, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 154, line 26, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 155, lines 7 and 8, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 155, line 10, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 155, line 20, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 156, line 18, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 159, line 13, by deleting all new language and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 185, lines 24 and 25, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 189, lines 24 and 25, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 190, lines 6 and 7, by deleting "***Kentucky Community and Technical College System***" and inserting in lieu thereof "***Kentucky Community College and Technical Institute System***";

On page 191, line 18, by deleting "Kentucky Community and Technical College System" and inserting in lieu thereof "Kentucky Community College and Technical Institute System";

On page 192, lines 13 and 14, by deleting "Kentucky Community and Technical College System" and inserting in lieu thereof "Kentucky Community College and Technical Institute System"; and

On page 192, line 15, by deleting "Community and Technical College System" and inserting in lieu thereof "Community College and Technical Institute System".

Motions, Petitions and Communications

Representative Gooch moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 6**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns in memory of Billy C. McCully. For inasmuch as death, like life, is a gift from God, it is inevitable that this honoree is destined to sit at the foot of the cross for his phenomenal deeds throughout his lifetime and surely has earned the jewel in his crown and this prestigious body doth hereby recognize the gentleman as an individual dedicated to his community, serving as a Sebree councilman, Sebree City Judge, deacon of the First Baptist Church of Sebree; an honored World War II Army Veteran, and an inspiration and a beacon of unselfish acts and love for his fellowman. Members of the House of Representatives reach out to the McCully family during this sorrowful time, offering sincere condolences and adjourning May 15, 1997, in memory of Billy C. McCully. **Legislative Citation No. 6** was adopted without objection.

Representative Damron moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 10**:

HR 10, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Robert Wilson, Sr.

With deepest respect, we pay homage and tribute to James Robert Wilson, Sr.

WHEREAS, James Robert Wilson, Sr., was born on September 12, 1902, a native of Keene, Jessamine County, Kentucky, and traversed these earthly bounds on May 12, 1997; and

WHEREAS, James Robert Wilson, Sr., was the adored son of Ben Wilson and May Mosley Wilson, who preceded him in death; and

WHEREAS, James Robert Wilson, Sr., was the devoted husband of the late Gladys Mahin Wilson; and the loving father of two sons, James Robert "Bob" Wilson, Jr., and Ben W. Wilson; and he was the loving grandfather of two grandchildren; and

WHEREAS, James Robert Wilson, Sr., was the proprietor of Wilson's General Store, a family business that was started by his grandfather in 1867, and was located in the old Keene Springs Hotel; he was Keene's postmaster from 1936 to 1972; and he was successful in the farming business with farms located in Jessamine and Woodford counties; and

WHEREAS, James Robert Wilson, Sr., was recognized in his community as an outstanding citizen; he held the position of director emeritus of the First National Bank and Trust Company in Nicholasville; he was a member of the South Elkhorn Christian Church; and he was a charter member of Kentucky Food Stores Cooperative; and

WHEREAS, all who knew and admired James Robert Wilson, Sr., will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of James Robert Wilson, Sr., and extends to his family and friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness that James Robert Wilson, Sr. brought to his community and to this great Commonwealth will never be forgotten.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory of James Robert Wilson, Sr.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Mr. J. Robert Wilson, Jr., 1409 Keene-Elkhorn Pike, Keene, Kentucky 40339; and to Mr. Ben Wilson, 5708 Keene-Versailles Road, Keene, Kentucky 40339.

There being no objection **HR 10** was adopted.

Representative Lindsey moved that the rules be suspended to grant floor privileges to a former member. Agreed.

Representative Bruce moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bruce moved the adoption of the following **HR 9**:

HR 9, A RESOLUTION urging the Kentucky Revenue Cabinet to permit insurance companies selling Single Premium Deferred Annuities and Wholly Employer Sponsored Group Annuities in Kentucky to continue to elect the reporting and payment of the premiums tax upon annuitization rather than paying the tax in the year in which the annuity is purchased.

WHEREAS, the General Assembly recognizes the importance for citizens of the Commonwealth to plan and provide for their economic security upon reaching retirement; and

WHEREAS, Single Premium Deferred Annuities and Wholly Employer Sponsored Group Annuities are viable methods for individuals of the Commonwealth to provide for their retirement in a safe and low risk manner; and

WHEREAS, the Kentucky Revenue Cabinet has proposed a policy that would subject Single Premium Deferred Annuities and Wholly Employer Sponsored Group Annuities to the premiums tax when the annuity is purchased; and

WHEREAS, such a tax treatment would reduce the amount available to an individual for his or her retirement savings;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby urge the Kentucky Revenue Cabinet to permit insurance companies selling Single Premium Deferred Annuities and Wholly Employer Sponsored Group Annuities in Kentucky to continue to elect the reporting and payment of the premiums tax upon annuitization rather than paying the tax in the year in which the annuity is purchased.

Section 2. The House of Representatives also urges the Kentucky Revenue Cabinet to propose legislation for consideration during the 1998 Regular Session that would result in the tax treatment for annuity policies being equivalent to the tax treatment provided to other forms of retirement savings products.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this resolution to Governor Paul E. Patton, The Capitol, 700 Capitol Avenue, Frankfort, Kentucky 40601 and to Secretary Margaret A. Handmaker, Kentucky Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40602.

There being no objection **HR 9** was adopted.

The following members filed requests to have their names added as co-sponsors of a Bill under the Rules previously suspended: **HB 1**, Representatives Riggs, Burch.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 5:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 1**, by Representative Damron:

On page 4, line 23, after the word "***means***" by deleting "***a program***" and inserting "***the first sixty (60) hours of a program or degree***"; and

On page 119, line 6, after the period by inserting: "***A standardized degree program shall be limited to the first sixty (60) hours of a program or degree.***".

Floor Amendment No. 16 to the Committee Substitute No. 2to **HB 1**, by Representative Damron:

On page 13, by deleting lines 5 through 9 in their entirety and inserting in lieu thereof the following:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to:

- ***(a) Specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program;***
- ***(b) Specific funding amounts of all capital projects to be appropriated and funded from each individual trust fund in the Strategic Investment and Incentive Funding Program; and***
- ***(c) Funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.***

Floor Amendment No. 17 to the Committee Substitute No. 2 **HB 1**, by Representative Damron:

On page 16, line 10, after "***system***" by adding the following:

"***Notwithstanding any statute to the contrary, capital construction projects approved under this section shall be exempt from the requirements of KRS 337.505 to 337.550.***"

Floor Amendment No. 18 to the Committee Substitute No. 2 to **HB 1**, by Representative Hoffman:

On page 146, after line 18 by inserting the following new language:

"***(3) Upon receipt of a written authorization from an employee of the Kentucky Community and Technical College System, the board shall deduct dues from the employee's paycheck for employee membership organizations. Dues shall be deducted at a rate established by the organization, and shall be discontinued upon written notification by an employee to both the system and the employee organization. On a quarterly basis, the Kentucky Community and Technical College System shall provide to each employee membership organization an updated list that includes the names and home addresses of the employees who are having dues deducted from their paychecks for the purpose of maintaining membership in that organization.***"

Floor Amendment No. 19 to the Committee Substitute No. 2 to **HB 1**, by Representative Barrows:

On page 5, line 15, by deleting "***President of the Senate, the Speaker of the House of***"; and

On page 5, by deleting line 16 in its entirety; and

On page 5, line 17 by deleting "***the General Assembly, the minority caucus chair of each chamber***"; and

On page 5, line 15, after "***the***", by inserting "***members of the Legislative Research Commission***"; and

On page 7, line 18, after the period "***.***" by inserting "***There shall be unanimous agreement among the groups.***".

Floor Amendment No. 20 to the Committee Substitute No. 2 to **HB 1**, by Representative Riner:

On page 108, line 25, after "~~[student member]~~.", by inserting the following: "***One (1) of the lists of three (3) nominations to the Council on Postsecondary Education shall contain names of three (3) persons who have served as a member of a community college advisory board.***"; and

On page 110, line 27, after "***member.***", by inserting the following: "***One (1) of the thirteen (13) appointive members shall be a person who has served as a member of a community college advisory board.***"

Floor Amendment No. 21 to the Committee Substitute No. 2 to **HB 1**, by Representative Riner:

On page 108, line 25, after "~~[student member]~~." by inserting the following: "***At least one (1) of the lists containing nominations for appointment to the Council on Postsecondary Education shall contain the names of three (3) persons who have served as members of a regional advisory board for the system of postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers formerly known as Kentucky Tech, or as members of an advisory council to an institution operating within that system.***"; and

On page 110, line 27, after "***member.***" by inserting the following: "***At least one (1) of the thirteen (13) appointive council members shall have served as a member of a regional advisory board for the system of postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers formerly known as Kentucky Tech, or as a member of an advisory council to an institution operating within that system.***".

Floor Amendment No. 22 to the Committee Substitute No. 2 to **HB 1**, by Representative Lee:

On page 118, on line 19, after the word "***nature.***" by inserting the following:

"***Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program.***"

Floor Amendment No. 23 to the Committee Substitute No. 2 to **HB 1**, by Representative Treesh:

On Page 3, Line 6 after "***(5)***" by deleting the language on Lines 6 and 7; and

On page 3, Line 8 by deleting "***(6)***"; and

On Page 3, Line 10 by changing "***(7)***" to "***(6)***"; and

On Page 3, Line 13 by changing "***(8)***" to "***(7)***"; and

On Page 3, Line 16 by changing "***(9)***" to "***(8)***"; and

On Page 4, Line 2 by changing "***(10)***" to "***(9)***"; and

On Page 4, Line 6 by changing "***(11)***" to "***(10)***"; and

On Page 4, Line 9 by changing "***(12)***" to "***(11)***"; and

On Page 4, Line 12 by changing "***(13)***" to "***(12)***"; and

On Page 4, Line 17 by changing "***(14)***" to "***(13)***"; and

On Page 4, Line 19 by changing "***(15)***" to "***(14)***"; and

On Page 4, Line 23 by changing "***(16)***" to "***(15)***"; and

On Page 4, Line 26 by changing "***(17)***" to "***(16)***"; and

On Page 5, Line 1 by changing "***(18)***" to "***(17)***"; and

On Page 5, Line 8, after "***(1)***" delete the word "***The***" and insert the word "***A***"; and

On Page 5, Line 8 after the word "***is***" delete the remainder of the line in its entirety and substitute in lieu thereof "***temporarily created to***": and

On Page 5, Line 9 delete the word "***established.***" and insert in lieu thereof "***serve as the search committee for the review and consideration of candidates to be presented to the council for the final appointment to the position of president of the Council on Postsecondary Education. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group.***

(2)"; and

On page 5, Line 19 by changing "***(2)***" to "***(3)***"; and

On Page 5, Lines 20 through 22 by deleting Lines 20 through 22 in their entirety and inserting in lieu thereof, "***may meet as often as needed until a president has been appointed; however, once the initial president has been appointed by the council, the Strategic Committee on Postsecondary Education shall be immediately terminated and shall no longer exist for any purpose.***"; and

On Page 5, Line 23 by changing "***(3)***" to "***(4)***"; and

On Page 6, Lines 1 through 27 by deleting Lines 1 through 27 in their entirety; and

On Page 7, Lines 1 through 18 by deleting Lines 1 through 18 in their entirety; and

On Page 114, Line 9 after the word "***plan***" delete "***with the advice and counsel***" and insert in lieu thereof a semicolon "***;***" and

On Page 114, Line 10 delete Line 10 in its entirety.

Floor Amendment No. 24 to the Committee Substitute No. 2 to **HB 1**, by Representative Collins:

On page 25, lines 5 through 10, by deleting lines 5 through 10 in their entirety and inserting in lieu thereof the following:

"***(6) A regular full-time employee may, with prior administrative approval, take a maximum of six (6) credit hours per term at any state-supported postsecondary institution. The institution shall waive the tuition up to a a maximum of six (6) credit hours per term.***"

Floor Amendment No. 25 to the Committee Substitute No. 2 to **HB 1**, by Representative Treesh:

On Page 3, Line 22 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College Branch***"; and

On Page 19, Line 9 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College Branch***"; and

On Page 150, Line 16 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College***"; and

On Page 150, Lines 23 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College***"; and

On Page 151, Line 11 by deleting "***University of***" and inserting in lieu thereof "***Kentucky Community College***"; and

On Page 151, Line 12 by deleting "***Kentucky Community College System***".

Floor Amendment No. 26 to the Committee Substitute No. 2 to **HB 1**, by Representative Riner:

On page 145, line 19, after "institution." by inserting "***When making faculty appointments, each board of regents for the universities and the Kentucky Community and Technical Colleges System shall seek to ensure that all major philosophical viewpoints and perspectives which may exist within each particular field of study are represented in the collective makeup of the faculty within each field of study.***"; and

On page 191, between lines 11 and 12, by inserting the following:

"Section 148. KRS 164.220 is amended to read as follows:

(1) The board of trustees may appoint a president, professors, assistants, tutors and other personnel and determine the compensation, duties and official relations of each. In the appointment of presidents, professors or instructors no preference shall be shown to any religious denomination. ***When making faculty appointments, the board of trustees shall seek to ensure that all major philosophical viewpoints and perspectives which may exist within each particular field of study are represented in the collective makeup of the faculty within each field of study.***

(2) The board of trustees shall provide the compensation for all positions created and filled by the board. In addition thereto the board may provide for employee retirement benefits and such other employee benefits as are related to the respective employments and services rendered.

(3) The board of trustees may establish and maintain such retirement plan or plans as it may deem to be for the best interests of the University of Kentucky, including, but without limitation, the retirement ages, the benefits of such employees including group insurance, annuities, establishment of a trust fund or funds; and, the amounts to be paid or contributed by such employees and the amounts to be paid or contributed by the University of Kentucky and other appropriate terms and provisions with respect thereto.

Section 149. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university. ***When making faculty appointments, the board of trustees shall seek to ensure that all major philosophical viewpoints and perspectives which may exist within each particular field of study are represented in the collective makeup of the faculty within each field of study.***

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that such removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and such other officers as it deems wise, including the annual election of a five (5) member executive committee which shall have the powers that the board delegates to it and shall operate under such rules as the board shall establish under its authority to make such bylaws, rules, and regulations consistent with this chapter.

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870." and

By renumbering the remaining sections accordingly.

Floor Amendment No. 27 to the Committee Substitute No. 2 to **HB 1**, by Representative Rasche:

On page 151, line 24 after "***Education.***" by inserting "***A graduate of a program within three (3) years of the program becoming an accredited technical degree program shall receive all or partial credit toward the degree, based on criteria established by the institution and approved by the board of regents.***"

Floor Amendment No. 28 to the Committee Substitute No. 2 to **HB 1**, by Representative Anderson:

On Page 3, Line 22 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College Branch***"; and

On Page 19, Line 9 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College Branch***"; and

On Page 150, Line 16 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College***"; and

On Page 150, Lines 23 by deleting "***University of Kentucky Community College System***" and inserting in lieu thereof "***Kentucky Community College***"; and

On Page 151, Line 11 by deleting "***University of***" and inserting in lieu thereof "***Kentucky Community College***"; and

On Page 151, Line 12 by deleting "***Kentucky Community College System***"; and

On Page 154, Line 4 after the "(1)" by inserting

"***(a)***"; and

On Page 154, between Lines 7 and 8 by inserting

"***(b) The board of regents for the Kentucky Community and Technical College System shall remove from all buildings and signs any reference to :***

1. The University of Kentucky; or

2. The University of Kentucky Community College System."

Floor Amendment No. 29 to the Committee Substitute No. 2 to **HB 1**, by Representative Anderson:

On Page 122 Line 12 by deleting the words "***Nothing in this chapter shall be construed to grant the*** ": and
On Page 122 Lines 13 through 15 by deleting Lines 13 through 15 in their entirety.

Floor Amendment No. 30 to the Committee Substitute No. 2 to **HB 1**, by Representative Callahan:

On page 151, line 9 after "***board of***" by deleting "***trustees***" and inserting in lieu thereof "***regents***".

Floor Amendment No. 31 to the Committee Substitute No. 2 to **HB 1**, by Representative Haydon:

On page 17, line 10 before the word "***accredited***", by inserting the word "***regionally***"; and
On page 17, line 26, after the word "***postsecondary***", by inserting the word "***regionally***"; and
On page 164, line 6, by removing the brackets and strikethroughs from the word "[~~nonprofit~~]".

Floor Amendment No. 32 to the Committee Substitute No. 2 **HB 1**, by Representative Stacy:

On page 121, line 16, by deleting the words "***standardized accounting***", and inserting in its place "***financial reporting***".

Floor Amendment No. 33 to the Committee Substitute No. 2 to **HB 1**, by Representative Brown:

On page 9, line 5 after "***levels.***" by inserting "***Notwithstanding the provisions of KRS 11A.040, any person employed by the Council on Higher Education prior to the effective date of this Act may accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and may carry out the employment duties assigned by that entity, organization or institution.***"

Floor Amendment No. 34 to the Committee Substitute No. 2 **HB 1**, by Representative Baugh:

On page 3, line 19, before the word "***postsecondary***" by adding the words "***secondary area vocational education and technology centers,***" ; and

On page 3, line 8, by deleting "***72***" and inserting "***69***" in lieu thereof; and

On page 9, line 14, by deleting "***73***" and inserting "***70***" in lieu thereof; and

On page 11, line 6, by deleting "***83***" and inserting "***80***" in lieu thereof; and

On page 20, line 17, before the word "***postsecondary***" by adding the words "***secondary area vocational education and technology centers and the***"; and on line 23, before the word "***postsecondary***" by adding the words "***secondary area vocational education and technology centers and the***", and on line 26 by deleting the words "***Department for Technical Education and the***"; and

On page 21, line 1, before the word "***postsecondary***" by inserting the words "***secondary area vocational and technology centers and***"; and on line 5, after the "***.***" by deleting the word "***Appropriate***" and by adding the word "***All***" before the word "***central***"; and on line 6, by deleting the word "***assigned***" and by adding the word "***transferred***" in lieu thereof; and on line 10, before the word "***postsecondary***" by inserting the words "***secondary area vocational education and technology centers and the***"; and on line 13, before the word "***postsecondary***" by adding the words "***secondary area vocational education and technology centers and the*** "; and

On page 21, line 14, after the underlined period, by adding the following: "***In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.***"; and

On page 22, line 8, by deleting "***67***" and inserting "***64***" in lieu thereof; and

On page 34, line 27, after the letter "(b)", by inserting an opening bracket before "Department" and striking through "Department for Technical Education."; and

On page 35, line 1 by striking through "(c)" and placing a closing bracket thereafter; and

On page 35, line 2 by inserting "***(c)***" before "(d)" and by bracketing and striking through "(d)"; and

On page 35, line 3 by inserting "***(d)***" before "(e)" and by bracketing and striking through "(e)"; and

On page 35, line 4 by inserting "***(e)***" before "(f)" and by bracketing and striking through "(f)"; and

On page 35, line 5 by inserting "***(f)***" before "(g)" and by bracketing and striking through "(g)"; and

On page 35, line 6 by inserting "***(g)***" before "(h)" and by bracketing and striking through "(h)"; and

On page 35, line 7 by inserting "***(h)***" before "(i)" and by bracketing and striking through "(i)"; and

On page 35, line 8 by inserting "***(i)***" before "(j)" and by bracketing and striking through "(j)"; and

On page 35, line 9 by inserting "***(j)***" before "(k)" and by bracketing and striking through "(k)"; and

On page 35, line 10 by inserting "***(k)***" before "(l)" and by bracketing and striking through "(l)"; and

On page 35, line 11 by inserting "***(l)***" before "(m)" and by bracketing and striking through "(m)"; and

On page 35, line 12 by inserting "***(m)***" before "(n)" and by bracketing and striking through "(n)"; and

On page 35, line 13 by inserting "***(n)***" before "(o)" and by bracketing and striking through "(o)"; and

On page 35, line 14 by inserting "***(o)***" before "(p)" and by bracketing and striking through "(p)"; and

On page 35, line 15 by inserting "***(p)***" before "(q)" and by bracketing and striking through "(q)"; and

On page 35, line 4, after the word "Adult", by bracketing and striking through the words "and Technical"; and

On page 62, beginning after line 5, and continuing to page 65, line 19, by deleting Sections 43 and 44 in their entirety and by renumbering subsequent sections accordingly; and

On page 65, line 21, after the word "Adult", by bracketing and striking through the words "and Technical"; and on line 25, by placing an opening bracket before and striking through the words "and the Department for Technical Education central offices,"; and on line 26, by striking through the words "state-operated vocational facilities; and regional staffs" and placing a closing bracket before the "."; and

On page 66, line 3, after the word "Adult", by bracketing and striking through the words "and Technical"; and on line 5, by placing an opening bracket before and striking through the words "and the"; and on line 6, by striking through and placing a closing bracket after the words "Department for Technical Education"; and on lines 23 and 24, by deleting the new language and removing the brackets and strike throughs; and on line 23, by placing on opening bracket after the letter "(j)" and by striking through the language on lines 23, 24, and 25, and on line 26, by striking through and placing a closing bracket after the letter "(k)"; and

On page 66, line 27, by inserting "***(k)***" before "(l)" and by bracketing and striking through "(l); and

On page 67, line 2, by inserting "***(l)***" before "(m)" and by bracketing and striking through "(m); and

On page 67, line 3, by inserting "***(m)***" before "(n)" and by bracketing and striking through "(n); and

On page 67, line 4, by inserting "***(n)***" before "(o)" and by bracketing and striking through "(o); and

On page 67, line 5, by inserting "***(o)***" before "(p)" and by bracketing and striking through "(p); and

On page 67, line 6, by inserting "***(p)***" before "(q)" and by bracketing and striking through "(q); and

On page 67, line 8, by inserting "***(q)***" before "(r)" and by bracketing and striking through "(r); and

On page 67, line 9, by inserting "***(r)***" before "(s)" and by bracketing and striking through "(s); and

On page 67, line 10, by inserting "***(s)***" before "(t)" and by bracketing and striking through "(t); and

On page 67, line 11, by inserting "***(t)***" before "(u)" and by bracketing and striking through "(u); and

On page 67, line 19, after the word "Adult" by bracketing and striking through the words "and Technical"; and on line 23, by placing an opening bracket before and striking through the word "and"; and on line 24, by striking through the words "the Department for Technical Education" and by placing a closing bracket before the "."; and on line 25, by placing an opening bracket before and by striking through the words "and the commissioner for"; and on line 26, by striking through and placing a closing bracket after the words "Technical Education", and by adding the word "***authority***" after the word "appointing", and by bracketing and striking through the word "authorities"; and on line 27, after the word "for" by adding the words "***the department***", by bracketing and striking through the words "their respective departments", and by bracketing and striking through the word "Each", and by adding the word "***The***" before the word "commissioner"; and

On page 68, line 22, by placing an opening bracket before and by striking through the words "state-operated vocational technical facilities, field offices, and"; and on line 23, by striking through and placing a closing bracket after the words "central office in", and by placing an opening bracket before and by striking through the words "and the"; and on line 24, by striking through and placing a closing bracket after the words "Department for Technical Education"; and

On page 70, line 20, after the word "Adult" by bracketing and striking through the words "and Technical"; and on line 23, after the word "literacy," by bracketing and striking through the words "the commissioner for technical education," ; and

On page 71, lines 21 and 22, by deleting the new language and the brackets and strikethroughs; and on line 21, by placing an opening bracket after the number "(5)" and by striking through the language on lines 21 through 27; and

On page 72, by striking through lines 1 and 2; and on line 3, by striking through and placing a closing bracket after the number "(6)", and

On page 72, line 10, by inserting "***(6)***" before "(7)" and by bracketing and striking through "(7)"; and

On page 72, line 12, by bracketing and striking through the words "and the Department for Technical Education"; and

On page 72, line 13, by inserting "***(7)***" before "(8)" and by bracketing and striking through "(8)"; and

On page 73, line 1, by inserting "***(8)***" before "(9)" and by bracketing and striking through "(9)"; and

On page 73, line 10, by inserting "***(9)***" before "(10)" and by bracketing and striking through "(10)"; and

On page 73, lines 3 and 4, by deleting the new language and removing the brackets and strikethroughs; and on line 2, by placing an opening bracket before and striking through the word "For"; and by striking through the language on lines 3, 4, 5, and 6; and on line 7, by striking through and placing a closing bracket after the word "ruling.", and by placing an opening bracket before and striking through the word "and"; and on line 8, by striking through the words "the Department for Technical Education" and placing a closing bracket before the ","; and on line 15, after the word "Adult" by bracketing and striking through the words "and Technical"; and on line 24, after the word "Adult" by bracketing and striking through the words "and Technical"; and

On page 74, line 3, after the word "Adult" by bracketing and striking through the words "and Technical"; and

On page 74, line 9, by placing an opening bracket before and striking through "(7)" and by striking through the words "the board" ; and on lines 9 through 14, by deleting the new language; and on line 14, by removing the opening bracket, and on line 16, by deleting the closing bracket, and on line 17, by deleting the opening bracket; and

On page 75, lines 4 and 5, by deleting the new language and the brackets and strikethoughs; and on line 3, by bracketing and striking through the words "and Technical", and by placing an opening bracket before and striking through the words "shall have the management and"; and by striking through lines 4 and 5; and on line 6, by striking through and placing a closing bracket after "centers. In addition, it " ; and

On page 76, line 1, by deleting the words "***operated by the***"; and on line 2, by deleting the words "***Department for Technical Education***"; and on line 3, after the word "Adult" by bracketing and striking through the words "and Technical"; and on line 6, by deleting the words "***under its control***"; and

On page 76, beginning after line 14, by deleting Section 51 in its entirety and renumbering the remaining sections accordingly; and

On page 90, line 10, after the word "Adult", by bracketing and striking through the words "and Technical"; and

On page 108, line 25, by deleting "***96***" and inserting "***93***" in lieu thereof; and

On page 111, line 1, by deleting "***70***" and inserting "***67***" in lieu thereof; and

On page 111, line 10, by deleting "***70***" and inserting "***67***" in lieu thereof; and

On page 114, line 14, by deleting "***83***" and inserting "***80***" in lieu thereof; and

On page 120, line 9, by deleting "***65***" and inserting "***62***" in lieu thereof; and

On page 130, line 3, by deleting "***73***" and inserting "***70***" in lieu thereof; and

On page 133, line 1, by deleting "***139***" and inserting "***136***" in lieu thereof; and

On page 137, line 4, by deleting "***110***" and inserting "***107***" in lieu thereof; and

On page 138, line 3, by deleting "***70***" and inserting "***67***" in lieu thereof; and

On page 141, line 24, by deleting "***73***" and inserting "***70***" in lieu thereof; and

On page 145, after line 16, by adding the following:

"***1. The president shall serve as the chief executive officer of the Kentucky Community and Technical College system; and***

2. As the chief executive officer of the Lexington Community and Technical College, the president shall be the sole designated agent for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education."; and

On page 147, line 2, by deleting "***139***" and inserting "***136***" in lieu thereof; and

On page 147, line 4, by deleting "***139***" and inserting "***136***" in lieu thereof; and

On page 147, line 13, by deleting "***139***" and inserting "***136***" in lieu thereof; and

On page 155, line 21, by deleting "***100***" and inserting "***97***" in lieu thereof; and

On page 166, line 25, by deleting "***73***" and inserting "***70***" in lieu thereof; and

On page 177, line 14, by deleting "***110***" and inserting "***107***" in lieu thereof; and

On page 191, after line 11, by adding the following sections, and by renumbering subsequent sections accordingly:

"Section 145. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult ~~[and Technical]~~ Education, and any other management personnel with procurement authority;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Superintendent of Public Instruction;

(h) The Auditor of Public Accounts;

(i) Each Railroad Commissioner; and

(j) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "State agency" means every state office, department, division, board, commission, institution, public corporation, and authority within the executive branch;

(11) "Lobbyist" means any person employed as a legislative agent or legislative counsel to promote, oppose, or act with reference to any legislation which affects, or may affect, private pecuniary interests, as distinct from those of the whole people;

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts with reference to legislative action; and

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (i) of this section.

Section 146. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means a commissioner or any person authorized by a commissioner to act on behalf of his particular agency of the Cabinet for Workforce Development with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing and signed by both the commissioner and his designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(3)(i).

(3) "Board" means the State Board for Adult [~~and Technical~~] Education created by KRS 151B.095.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

(9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] requiring certification or its equivalent.

(10) "Employee" means a person regularly employed in a position in the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] for which compensation is on a full-time or part-time basis.

(11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] shall be subject to personnel administration under this chapter.

(12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant Attorney General.

(13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(15) "Limited status" means employment that is renewable on an annual basis.

(16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions.

(17) "Position" means employment involving duties requiring the services of one (1) person.

(18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(20) "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(22) "Region" means a grouping of counties as defined in respective state plans for vocational education.

(23) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.

(24) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(25) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(26) "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(27) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position, as well as any assistant or secretary attached to the position, who shall be exempt from the state service under KRS Chapter 18A and who is employed in the Department for Adult Education and Literacy [~~and the Department for Technical~~

~~Education~~] under this chapter.

Section 147. KRS 151B.020 is amended to read as follows:

(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) The Department for Adult Education and Literacy, which is created by KRS 151B.023;
(b)[~~The Department for Technical Education, which is created by KRS 151B.025;~~
~~(c)~~] The Department of Vocational Rehabilitation, which is created by KRS 151B.185;
(c)[~~(d)~~]The Department for the Blind, established by KRS 163.470;
(d)[~~(e)~~]The Department for Employment Services, which is created by KRS 151B.280;
(e)[~~(f)~~] The State Board for Adult [~~and Technical~~] Education, which is created by KRS 151B.095;
(f)[~~(g)~~] The Governor's Council on Vocational Education, established by KRS 163.086;
(g)[~~(h)~~] The State Board for Proprietary Education, established by KRS 165A.340;
(h[~~(i)~~] The Foundation for Adult Education, established by KRS 151B.130;
(i)[~~(j)~~] The Kentucky Job Training Coordinating Council, established by KRS 151B.220;
(j)[~~(k)~~] The Unemployment Insurance Commission established by KRS 341.110;
(k[~~(l)~~] The Office of Training and Reemployment created in KRS 151B.260; and
(l[~~(m)~~] The Office of School-to-Work, established by KRS 151B.250.

(3) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Development and Industry Relations, Workforce Analysis and Research, the Office for Policy, Budget, and Personnel, and the Office for Administrative Services. The Office for Policy, Budget, and Personnel shall contain the Division of Personnel Services, which shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050. The Office for Administrative Services shall contain the Divisions of Fiscal Services, Computer Services, and Facilities Management. Each division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.

(4) The secretary of the Cabinet for Workforce Development and his designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the Cabinet for Workforce Development may delegate any duties of his office to employees of the cabinet as he deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the Cabinet for Workforce Development shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 148. KRS 151B.023 is amended to read as follows:

(1) The Department for Adult Education and Literacy is hereby created and is attached to the Cabinet for Workforce Development. The Department for Adult Education and Literacy shall be composed of the Division of Program Services and the Division of Management and Support Services. Each division shall be headed by a director appointed by the commissioner of the Department for Adult Education and Literacy, and shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Adult Education and Literacy as set forth by administrative order.

(2) The Department for Adult Education and Literacy shall be headed by a commissioner. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult [~~and Technical~~] Education to the secretary of the Cabinet for Workforce Development and the Governor. The commissioner shall be

appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult [~~and Technical~~] Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned to the department.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of programs and services in adult education and literacy. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared-cost basis or on a total cost recovery basis. The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(4) The Department for Adult Education and Literacy shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for adult education and literacy. The department shall be under the jurisdiction of the State Board for Adult [~~and Technical~~] Education for all appropriate purposes under this chapter. All appropriate rights, responsibilities, and benefits under this chapter governing adult education and literacy personnel and programs shall apply to the Department for Adult Education and Literacy.

(5) The commissioner shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult [~~and Technical~~] Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of adult education and literacy.

(6) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult [~~and Technical~~] Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 149. KRS 151B.040 is amended to read as follows:

(1) All certified, equivalent, and unclassified employees in the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] shall be:

(a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;

(b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;

(c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;

(d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;

(e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and

(f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.

(2) Employees under the jurisdiction of the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the departments shall be placed in the Kentucky Teacher's Retirement System.

Section 150. KRS 151B.045 is amended to read as follows:

(1) The records of the Department for Adult Education and Literacy [~~and the Department for Technical Education~~] shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2) (a) A personnel file shall be maintained by the departments for each employee. The files maintained by the departments shall be the official personnel file for the employees.

(b) Each file shall include, but not be limited to, the employee's name, address, title of positions held, classifications, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.

(c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.

(3) Upon written request, an employee shall have the right to examine his personnel file. An employee may comment in writing on any item in the file. Such comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.

(4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 151. KRS 151B.050 is amended to read as follows:

Except as provided by the provisions of this chapter, the commissioner for adult education and literacy, ~~[and the commissioner for technical education]~~ may refuse to consider an applicant for a certified or equivalent position, or, after consideration, may disqualify the applicant or may remove an employee already appointed if:

(1) It is found that the person did not maintain certification or that certification has been revoked for the position;

(2) The person is unable to perform the duties of the position;

(3) The person made a false statement of material fact in the application;

(4) The application was not submitted correctly or within the prescribed time limits;

(5) The person has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;

(6) The person has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(7) The person has previously been dismissed from a position in his department for cause or has resigned while charges for dismissal for cause of which the person had knowledge were pending; or

(8) The person has otherwise violated the provisions of this chapter.

Section 152. KRS 151B.055 is amended to read as follows:

(1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the Department for Adult Education and Literacy ~~[and the Department for Technical Education]~~.

(2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:

  (a) The specific reasons for dismissal including:

    1. The statutory or regulatory violation;

    2. The specific action or activity on which the intent to dismiss is based;

    3. The date, time, and place of the action or activity; and

    4. The name of the parties involved; and

  (b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the commissioner or his designee.

(3) The departments shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the commissioner or his designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

  (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

  (b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the commissioner for adult ~~[and technical]~~ education or his designee.

(5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the commissioner or his designee, excluding the day the employee's request is received, unless the employee and the commissioner or his designee agree to a later date.

(6) No later than five (5) working days after the employee appears before the commissioner or his designee, excluding the day of the appearance, the commissioner or his designee shall:

  (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the commissioner or his designee determines that the employee shall be dismissed, the employee shall be notified in writing of:

(a) The effective date of dismissal or other penalization;

(b) The specific reason for the action, including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the dismissal is based;
3. The date, time, and place of the action or activities; and
4. The names of the parties involved; and

(c) That the employee may appeal the dismissal to the State Board for Adult ~~[and Technical]~~ Education within thirty (30) days after receipt of this notification, excluding the day the notice is received.

(8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:

(a) The demotion or suspension;

(b) The effective date of the demotion or suspension;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;
2. The specific action or activity on which the demotion or suspension is based;
3. The date, time, and place of the action or activity; and
4. The name of the parties involved; and

(d) That the employee has the right to appeal to the State Board for Adult ~~[and Technical]~~Education within thirty (30) days, excluding the day of receipt of notification.

(9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.

(10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(11) (a) Appeals to the State Board for Adult ~~[and Technical]~~ Education shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The departments shall be responsible for the distribution of the forms.

(b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.

(c) Upon receipt of the appeal by the board, the ~~[appropriate]~~ commissioner shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.

(12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.

(b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 151B.060.

(c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.

(13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(15) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the commissioner shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and

(d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.

(16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

Section 153. KRS 151B.065 is amended to read as follows:

(1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of KRS 151B.060, the board shall forward a certified copy of the order to the Department for Adult Education and Literacy~~[or the Department for Technical Education as appropriate]~~. The department shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.

(b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The State Board for Adult ~~[and Technical]~~ Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.

(c) All other deductions shall be deducted as required by law or by other state regulation.

(2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.

(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

Section 154. KRS 151B.080 is amended to read as follows:

(1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with applicable statutes and layoffs shall not be utilized as a method of dismissal.

(2) In the same department, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with continuing status. The department shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a layoff plan submitted to the commissioner have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment list for the class of position from which laid off and for any class for which such employee is qualified.

(5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the Department for Adult Education and Literacy ~~[or the Department for Technical Education]~~, except another laid-off employee with more seniority who is already on the list.

(6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:

(a) The laid-off employee notifies his department in writing that he no longer wishes to be considered for a position on the list;

(b) Two (2) written offers of appointment are declined, such offers to be for a position of the same classification and salary, and located in the same region, as the position from which laid off;

(c) Without good cause, the laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;

(d) The laid-off employee cannot be located by postal authorities at the last address provided; or

(e) The laid-off employee has willfully violated the provisions of this chapter.

(7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.

(8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of KRS 151B.055.

Section 155. KRS 151B.100 is amended to read as follows:

(1) The State Board for Adult [~~and Technical~~] Education is recognized to be a public body corporate and politic, and agency and instrumentality of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under its control and supervision, the board may implement the provisions of any act of Congress appropriating and apportioning funds to the state, receive funds appropriated by the General Assembly, provide for the proper apportionment and disbursement of those funds in accordance with state or federal laws, and accept and provide for the administration of any gifts, donations, or devises.

(3) (a) The board may expend funds necessary for errors and omissions, insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.

(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become members of state boards, and is deemed to authorize the expenditure of public funds for a public purpose.

(c) Nothing in this section shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the board or any of its respective officers, agents, or employees.

Section 156. KRS 151B.105 is amended to read as follows:

For meetings of the State Board for Adult [~~and Technical~~] Education, a majority of the voting members shall constitute a quorum for the transaction of business. The board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of the board may be called by the chairperson, and upon written request of two (2) members, the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested, to each member of the board at least ten (10) days prior to the time of any meeting unless all members of the board waive notice in writing. The office of the board shall be at the seat of government in the Cabinet for Workforce Development and shall be provided by the state. Members of the board shall receive a per diem of one hundred dollars ($100) for each regular or special meeting attended and actual expenses for attending meetings, and shall be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the board.

Section 157. KRS 151B.120 is amended to read as follows:

(1) The commissioner of the Department for Adult Education and Literacy [~~and the commissioner of the Department for Technical Education~~]may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the State Board for Adult [~~and Technical~~] Education at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the[~~appropriate~~] commissioner. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) ***The*** [~~Each~~]commissioner may approve authorization for his department to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 158. KRS 151B.125 is amended to read as follows:

(1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.

(a) A high school equivalency diploma shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5) fee may be assessed by the State Board for Adult ~~[and Technical]~~ Education for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.

(b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The Department for Adult Education and Literacy may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's Commission on Educational Credit and Credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) GED teachers in local districts shall receive training to teach writing skills to adults;

(b) The Department for Adult Education and Literacy is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay;

(c) Staff shall be employed and trained by the Department of Adult Education and Literacy to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED high school equivalency examination; and

(d) Essay readers will be assigned to the Division of Management and Support Services to score essays daily.

Section 159. KRS 151B.130 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.

(3) The foundation shall be governed by a board of trustees to be appointed by the State Board for Adult ~~[and Technical]~~ Education with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the agency with the responsibility for administering the adult education program.

(4) The foundation shall be attached to the office of the secretary of the Cabinet for Workforce Development for administrative purposes.

Section 160. KRS 151B.230 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the "Foundation for Workforce Development." The purpose of the foundation shall be to supplement public funding for technical education programs in order to expand existing skills training programs.

(2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used to fund technical education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the technical skill level of their employees.

(3) The foundation shall be governed by a board of trustees to be appointed by the secretary of the Cabinet for Workforce Development based on recommendations from business, industry, labor, education, and interested citizens. ~~[Staff assistance for the board of trustees shall be provided by the Department for Technical Education.]~~

(4) The foundation shall be attached to the office of the secretary of the Cabinet for Workforce Development for administrative purposes.

(5) The foundation shall report its finances consistent with statutes and regulations promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

Section 161. KRS 158.360 is amended to read as follows:

(1) The State Board for Adult ~~{and Technical}~~ Education shall authorize grants to selected local school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents.

(2) Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills.

(3) Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.

(4) Only those parents who have a preschool child three (3) years of age or older who is not enrolled in a public school program, and who do not possess a high school diploma or its equivalent or who test below an eleventh grade level shall be eligible.

(5) Local education agencies shall be given first priority for funds if the percentage of adults not graduating from high school exceeds fifty percent (50%) in the county or district. Selection for grant awards shall be based on the educational need of the adult population, the incidence of unemployment, and the percentage of elementary school children eligible for free or reduced priced meals in the county or district. Priority shall also be given to local education agencies implementing family resource centers pursuant to KRS 156.497 and located in counties implementing the job opportunities and basic skills program as established by the federal Family Support Act of 1988.

(6) Each grant proposal shall include a plan for providing the following:

(a) Identification and recruitment of eligible participants;

(b) Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

(c) Transportation, lunch, and free general education development testing for program participants;

(d) Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs;

(e) Certification of the eligibility and enrollment of a minimum of ten (10) with a maximum of fifteen (15) parents with their children;

(f) Coordination with family resource centers pursuant to KRS 156.497, preschool programs for children at risk of educational failure pursuant to KRS 157.3175, and preschool programs for children with disabilities pursuant to KRS 157.226; and

(g) Coordination with the job opportunities and basic skills program established pursuant to the federal Family Support Act of 1988.

(7) Local education agencies may blend this program with other programs if the grant proposal meets all criteria set out in subsection (6) and if funds from the blended programs are not allocated for duplicative services and enrollment numbers are not duplicated in the blended programs.

Section 162. KRS 161.011 is amended to read as follows:

(1) "Classified employee" shall mean an employee of a local district who is not required to have certification for his position as provided in KRS 161.020.

(2) The commissioner of education shall establish by January, 1992, job classifications and minimum qualifications for local district classified employment positions which shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be a classified employee or receive salary for services rendered in that position unless he holds the qualifications for the position as established by the commissioner of education.

(3) No person who is initially hired after July 13, 1990, shall be eligible to hold the position of a classified employee or receive salary for services rendered in such position, unless he holds at least a high school diploma or GED certificate, or he shows progress toward obtaining a GED. To show progress toward obtaining a GED, a person shall be enrolled in a GED program and be progressing satisfactorily through the program, as defined by administrative regulations adopted by the State Board for Adult ~~{and Technical}~~ Education.

(4) Local school districts shall encourage classified employees who were initially hired before July 13, 1990, and who do not have a high school diploma or a GED certificate to enroll in a program to obtain a GED.

(5) Local districts shall enter into written contracts with classified employees.

(6) Local school boards shall develop and provide to all classified employees written policies which shall include, but not be limited to:

(a) Terms and conditions of employment;

(b) Identification and documentation of fringe benefits, employee rights, and procedures for the reduction or laying off of employees; and

(c) Discipline guidelines and procedures that satisfy due process requirements.

(7) Local school boards shall maintain a registry of all vacant classified employee positions that is available for public

inspection in a location determined by the superintendent and make copies available at cost to interested parties. If financially feasible, local school boards may provide training opportunities for classified employees focusing on topics to include, but not be limited to, suicide prevention, abuse recognition, and cardiopulmonary resuscitation (CPR).

(8) The evaluation of the local board policies required for classified personnel as set out in this section shall be subject to review by the Department of Education while it is conducting district management audits pursuant to KRS 158.785.

Section 163. KRS 163.086 is amended to read as follows:

(1) There shall be a Governor's Council on Vocational Education, consisting of thirteen (13) members appointed by the Governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of Public Law 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry, and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the Kentucky Job Training Coordinating Council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations, and special populations to include women, the disadvantaged, individuals with disabilities, individuals with limited English proficiency, and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds available to the Governor's Council on Vocational Education.

(5) The council shall be assigned duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the State Board for Adult ~~[and Technical]~~ Education or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the State Board for Adult ~~[and Technical]~~ Education and make reports to the Governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for individuals with disabilities; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the State Board for Adult ~~[and Technical]~~ Education on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the State Board for Adult ~~[and Technical]~~ Education on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins Vocational Education Act (Public Law 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the State Board for Adult ~~[and Technical]~~ Education to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the State Board for Adult ~~[and Technical]~~ Education on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the State Board for Adult ~~[and Technical]~~ Education on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act; and

(j) Advise the Governor, the State Board for Adult ~~[and Technical]~~ Education, Kentucky Job Training Coordinating Council, the secretary of the Cabinet for Human Resources, and the secretary of labor of these findings and recommendations.

(6) The council shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council may obtain the services of the professional, technical, and clerical personnel necessary to carry out its functions and to contract for the services necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other state boards, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to, federal grants. The funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the Cabinet for Workforce Development to act as its fiscal agent for purposes of disbursement, accounting, and auditing." and

.On page 191, after line 12, by adding the following and renumbering the remaining sections accordingly:

"151B.025 Department for Technical Education.
151B.030 Organizational Structure of Department for Technical Education
151B.110 Board to manage state-operated vocational schools.
151B.150 State Board for Adult and Technical Education authorized to carry out vocational education programs.
151B.155 State Treasurer custodian of funds.
151B.160 State Board for Adult and Technical Education authorized to carry out vocational education programs.
151B.170 Liability insurance for motor vehicles owned or operated by department in vocational schools and centers.
151B.175 Medical and accident insurance for students."

Floor Amendment No. 35 to the Committee Substitute No. 2 to **HB 1**, by Representative Hogancamp:

On page 25, after line 17, by inserting the following:

"***(8) Nothing in this Act shall be construed to compel a student toward a particular academic or vocational program of study based on the economic needs of a region or the state. A student shall retain the right to choose his or her academic or vocational program of study based on personal interests and academic preferences.***"

Recess

Representative Stumbo moved that the House recess until 7:30 p.m. and that when the House does adjourn it does so by voice vote. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 36 to the Committee Substitute No. 2 to **HB 1**, by Representative Stumbo:

On page 25, line 5, after "***(6)***" by inserting: "***Tuition shall be waived for each***"; and

On page 25, line 5, by deleting "***A regular***"; and

On page 25, line 5, by inserting after "***employee***" the following: "***to take a maximum of six (6) credit hours***"; and

On page 25, line 5 and 6, by deleting "***may, with prior administrative approval, take one (1) course***"; and

On page 25, line 6, after "***sessions***" by inserting "***at any state supported postsecondary institution***"; and

On page 25, line 6, by deleting "***on the University of***"; and

On page 25, by deleting lines 7 through 9 in their entirety; and

On page 25, line 10, by deleting "***sessions***".

Floor Amendment No. 37 to the Committee Substitute No. 2 to **HB 1**, by Representative Anderson:

On page 122, line 11, after "***(33)***" by inserting the following:

"***Disestablish or eliminate a regional university, or convert a regional university to a community college to ensure the mission, goals, and objectives conform to the state strategic agenda for postsecondary education; and***

(34)"

Floor Amendment No. 38 to the Committee Substitute No. 2 to **HB 1**, by Representative Anderson:

On page 137, on line 2, by placing an opening bracket before "(4)", by placing a closing bracket at the end of line 4, and striking through all intervening existing language and deleting all the new language; and

On page 152, line 15, after the word "Ashland," by inserting the word "*Bowling Green,*" and

On page 152, line 16, by inserting after the word "Hopkinsville, " the word "*Lexington,*"; and

On page 152, line 16, by inserting the word "*Northern,*"after the word "Madisonville,"; and

On page 152, line 19, after the word "*Green.*", by deleting the word "*Additional*"; and

On page 152, by deleting lines 20 through 23 in their entirety; and

On page 154, line 14, by deleting section 116 in its entirety, and renumbering the subsequent sections to conform:

On page 133, line 1, by changing "*139*" to "*138*";and

On page 147, lines 2, 4, and 13, by changing "*139*" to "*138*"; and

On page 191, between lines 15 and 16, insert the following repealer:

164.597 Northern Community College to be operated by Northern Kentucky University -- Programs.

Floor Amendment No. 39 to the Committee Substitute No. 2 to **HB 1**, by Representative Marzian:

On page 107, line 15, after "reflect", by inserting "*equal gender representation and*";

On page 111, line 12, after "*representation,*", by inserting "*assure equal gender representation,*";

On page 111, line 17, after "*than*", by changing "*two (2)*" to "*three (3)*" ;

On page 138, line 4, after "*than*", by changing "*two (2)*" to "*three (3)*".

Floor Amendment No. 40 to the Committee Substitute No. 2 to **HB 1**, by Representative Hogancamp:

On page 13, after line 2 by adding the following:

"*(4) The General Assembly shall retain its duty to oversee the budget by requiring prior approval for receipt of any private moneys and gifts from any private entity received by the Strategic Investment and Incentive Funding Program for postsecondary education, or by any board, council, or committee involved in the postsecondary education system of the Commonwealth. This approval shall occur during a regular or special session of the General Assembly. All records of private moneys accepted by the Strategic Investment and Incentive Funding Program shall be subject to full public disclosure and shall be located at the office of the Council on Postsecondary Education.*"

Floor Amendment No. 41 to the Committee Substitute No. 2 to **HB 1**, by Representative Collins:

On page 25, between lines 10 and 11, insert the following:

"*(7) A regular full-time faculty member or staff person may, with prior administrative approval, take the maximum number of tuition-free credit hours per term or year at any state-supported postsecondary institution under the institution's policy governing the number of tuition-free credit hours per term or year permitted for internal faculty on the effective date of this Act.*"; and

On page 25, line 11, by changing "*(7)*" to "*(8)*".

Floor Amendment No. 42 to the Committee Substitute No. 2 to **HB 1**, by Representative Barrows:

On page 1, after the enacting clause, by deleting the remainder of the bill in its entirety and inserting in lieu thereof the following:

"Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development of a well-educated and highly-trained workforce; and

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

(d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that ensures, in conjunction with other postsecondary institutions, reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Technical College System;

(4) "Board of regents" means the governing board of each regional university and the Kentucky Technical College System;

(5) "Council" means the Council on Postsecondary Education created in Section 69 of this Act;

(6) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(7) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Technical College System;

(8) "Kentucky Technical College System" means:

(a) The postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

(b) Institutions created by the board of regents for the Kentucky Technical College System and approved by the General Assembly;

(9) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(10) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(11) "Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(12) "Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, the University of Kentucky Community College System, and the Kentucky Technical College System;

(13) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(14) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(15) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(16) "Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and

(17) "Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

There shall be a search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. The committee shall be composed of the chair of the Council on Postsecondary Education and seven (7) members of the council designated by the chair; the governor and seven (7) persons designated by the governor; and the members of the Legislative Research Commission. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group. There shall be unanimous agreement among the groups.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties

and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 70 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(11) Once appointed, the president shall serve at the pleasure of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 80 of this Act, and the degree to which the unnecessary duplication of programs has been reduced among postsecondary institutions and low performance programs have been eliminated.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

(7) (a) No later than six (6) months following the appointment of the first president of the Council on Postsecondary Education, the council shall adopt short-term strategies, objectives, and benchmarks for cooperation and collaboration between the University of Kentucky Community Colleges and the Kentucky Technical College System and for the reduction of unnecessary duplication to carry out the goals established in Section 2 of this Act. The strategies shall include, but not be limited to, the responsiveness to regional needs, the quality of programs, student ability to easily transfer programs, the number of articulation agreements, and the degree to which the two (2) systems promote achievement of the strategic agenda.

(b) The chancellor of the Community College System and the president of the Kentucky Technical College System shall meet at least quarterly to review progress toward meeting the short-term strategies developed pursuant to paragraph (a) of this subsection. Following each meeting, they shall submit a progress report to the president of the Council on Postsecondary Education.

(c) The Council on Postsecondary Education shall review the progress made in meeting the short-term objectives and benchmarks over a five (5) year period to determine the advisability of changing the governance of the University of Kentucky Community College System and the Kentucky Technical College System as a long-term strategy to achieve the goals.

(8) In developing the strategic agenda for postsecondary education, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda for postsecondary education, the council shall distribute a copy to each local school district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, community college, Kentucky Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs

and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be

awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities, community colleges, and institutions in the Kentucky Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Technical College System is established and shall provide services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state. It shall serve as the entry point for employers and agencies seeking customized training to the extent possible.

(2) The Kentucky Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of

Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever-changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) The board of regents for the Kentucky Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(4) The president through the faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

(5) The president shall seek to offer an accredited associate degree in applied science by the year 2010.

(6) The board of regents shall award a degree to any student of the Kentucky Tech System who prior to the effective date of this Act earned a diploma or certificate from a program meeting the standard for a degree by making application to the board within five (5) years of the establishment of the degree program.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Technical College System shall be appointed from candidates selected in a search by a search committee.

(2) The president shall possess the necessary skills to guide and direct the institutional mission of the system.

(3) The president shall be responsible for:

(a) Administering the programs and services for the system;

(b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff;

(c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;

(d) Supervising the development of policies within the overall framework of the system;

(e) Advocating the needs of the students, institutions, and staff under the president's jurisdiction;

(f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the universities, community colleges, and the technical institutions;

(g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;

(h) Preparing accountability reports and other reports as needed;

(i) Preparing internal budget plans; and

(j) Other duties as identified by the Council on Postsecondary Education.

(4) The president shall serve at the pleasure of the board.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the

Kentucky Technical College System.

(a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 64 of this Act or the Kentucky Employees Retirement System under Section 34 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs; and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development. Except that the board of regents for the Kentucky Technical College System shall establish a personnel dispute resolution system that results, in the final stage, in an independent third party appeal for all employees of the Kentucky Technical College System. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Technical College System shall be governed by the rules and regulations established by the board.

(3) A regular full time employee may, with prior administration approval, take a maximum of six (6) credit hours each term at any state supported postsecondary institution with tuition being waved by that institution.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident

insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policy makers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities, community colleges, and the Kentucky Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 24. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999, and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:

   (a) A baseline analysis and projections of economic conditions and outlook;

   (b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and

   (c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 25. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

   1. The Governor.

   2. Lieutenant Governor.

   3. Department of State.

      (a) Secretary of State.

      (b) Board of Elections.

      (c) Registry of Election Finance.

   4. Department of Law.

        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Medical Examiner Program.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.
            (2) Education Professional Standards Board.
        (b) Department for Libraries and Archives.
        (c) Kentucky Arts Council.
        (d) Kentucky Educational Television.
        (e) Kentucky Historical Society.
        (f) Kentucky Teachers' Retirement System Board of Trustees.
        (g) Kentucky Center for the Arts.
        (h) Kentucky Craft Marketing Program.
        (i) Kentucky Commission on the Deaf and Hard of Hearing.
        (j) Governor's Scholars Program.
        (k) Governor's School for the Arts.
        (l) Office of Development.
        (m) Kentucky Heritage Council.
        (n) Kentucky African-American Heritage Commission.
    3. Natural Resources and Environmental Protection Cabinet:
        (a) Environmental Quality Commission.
        (b) Kentucky Nature Preserves Commission.
        (c) Department for Environmental Protection.
        (d) Department for Natural Resources.
        (e) Department for Surface Mining Reclamation and Enforcement.
        (f) Office of Legal Services.
        (g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
    (a) Department of Highways.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.
    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Office of Aeronautics.
    (g) Office of General Counsel.
    (h) Office of Public Relations.
    (i) Office of Personnel Management.
    (j) Office of Minority Affairs.
    (k) Office of Environmental Affairs.
5. Cabinet for Economic Development:
    (a) Department of Administration and Support.
    (b) Department of Job Development.
    (c) Department of Financial Incentives.
    (d) Department of Community Development.
    (e) Tobacco Research Board.
    (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.
    (c) Department of Housing, Buildings and Construction.
    (d) Department of Financial Institutions.
    (e) Department of Mines and Minerals.
    (f) Department of Public Advocacy.
    (g) Department of Alcoholic Beverage Control.
    (h) Kentucky Racing Commission.
    (i) Board of Claims.
    (j) Crime Victims Compensation Board.
    (k) Kentucky Board of Tax Appeals.
    (l) Backside Improvement Commission.
7. Cabinet for Human Resources:
    (a) Department for Health Services.
    (b) Department for Social Insurance.
    (c) Department for Social Services.
    (d) Department for Medicaid Services.
    (e) Department for Mental Health and Mental Retardation Services.
    (f) Commission for Children with Special Health Care Needs.
    (g) Public Assistance Appeals Board.
    (h) Office of Administrative Services.
    (i) Office of Communications.
    (j) Office of General Counsel.
    (k) Office of Inspector General.
    (l) Office of Policy and Budget.
    (m) Office of the Ombudsman.
8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on ***Postsecondary***~~[Higher]~~ Education.
(a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 26. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***~~[Higher]~~ Education~~[(The state universities and colleges shall report through the Council on Higher Education)]~~;
(2) Department of Military Affairs;
(3) Department of Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs; and
(7) Coal Marketing and Export Council.

Section 27. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***[~~of higher education~~] pertaining to students attending or applicants to ***the***[~~such~~] institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 28. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative

Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;[~~and~~]

(z) Employees of the Kentucky Peace Corps*; and*

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided ***in KRS 18A.005 to 18A.200***[~~herein~~].

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted towards years of experience for calculating benefits and compensation.

Section 29. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 30. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 31. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and

164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,~~[and]~~ Eastern Kentucky University***, and the Kentucky Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 32. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;~~[and]~~
9. Eastern Kentucky University***; and***
10. Kentucky Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 33. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state[~~colleges or~~] universities***, the Kentucky Technical College System,*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state[~~college or of the~~] university ***or the Kentucky Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 34. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***[~~Higher~~] Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);[~~and~~]

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as members; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Technical College System.

Section 35. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 36. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications

technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;

(c) The ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The chief state school officer or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) The executive director of the Public Service Commission or his designee;

(k) One (1) representative of local governments to be appointed by the Governor; and

(l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 37. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 38. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,~~[and]~~ Murray State University***, and the Kentucky Technical College System***, and members of the Kentucky Board of Education and the Council on ***Postsecondary***~~[Higher]~~ Education shall not be removed except for cause.

Section 39. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Technical College System***~~[Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet]~~;

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The ***president of the Kentucky Technical College System***~~[commissioner of the Department for Adult and Technical Education]~~ and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions~~[hereunder]~~.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 40. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered***:***[~~,~~]

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***[~~,~~]

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***[~~Higher~~] Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on ***Postsecondary***[~~Higher~~] Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 41. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and

Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***[~~herein~~].

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of[~~ nondegree programs in post-secondary and vocational-technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools,~~] state-operated ***secondary*** area vocational education ***and technology*** centers[~~, state technical institutes, and technology centers~~]. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***[~~Kentucky Board of Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education~~]. ***In addition to direct appropriations, funds appropriated to support*** the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching ***specialties***[~~specialities~~]. [~~Such~~]Agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***[~~45~~]. All[~~ such~~] agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 42. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.[~~ The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.~~]

(2) There is hereby created a Division of ***Administrative***[~~Federal Programs and Support~~] Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***[~~the Kentucky Tech System~~] within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***[~~vocational technical schools~~

~~and]~~ area ***vocational education and technology*** centers~~[known as the Kentucky Tech System]~~. The office shall be composed of the Division of School ***Management***~~[Operations]~~, the Division of ***Curriculum Services***~~[Program Management]~~, an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 43. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the ***state-operated area vocational education and technology centers***~~[Kentucky Tech System]~~ school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) ***An***~~[No]~~ administrative body other than the State Board for Adult and Technical Education shall ***not*** promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. [~~Such~~]Designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted toward years of experience for calculating benefits and compensation.

Section 44. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***[~~schools~~] shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical

Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 45. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Technical College System***[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.~~]

Section 46. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 47. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Technical College System and other postsecondary institutions. A*** [~~when feasible. No~~] public institution of higher education[~~, including the community colleges,~~] shall ***not*** offer any[~~ new~~] program of a vocational-technical-occupational nature below the associate degree level without the consent of the[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System and the approval of the Council on Postsecondary*** Education. The[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System***[~~Education~~], with approval of the Council on ***Postsecondary***[~~Higher~~] Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 48. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***[~~vocational technical schools and~~] area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for[~~ postsecondary pupils and~~] adults who are enrolled ***in secondary programs*** in the state***-*** operated[~~ vocational technical schools and~~] area vocational education ***and technology*** centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Technical College System***.[~~ The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.~~]

Section 49. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***[~~vocational technical schools~~] and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***[~~state vocational technical~~] schools ***under its jurisdiction***[~~and area vocational education centers~~]. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary[~~ and postsecondary~~] students[~~ and adults~~], the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 50. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to***,*** the following:

   (a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

   (b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

   (c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

   (d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

   (e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

   (f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The ***president of the Kentucky Technical College System***[~~ commissioner of the Department for Technical Education~~];

(g) The commissioner of the Department for Adult Education and Literacy;

(h) The commissioner of the Department for the Blind;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.,

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 51. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***[~~chairman~~] of the Council on ***Postsecondary***[~~Higher~~] Education, the secretary of the Cabinet for Workforce Development and the ***president***[~~chancellor~~] of the[~~ University of~~] Kentucky [~~Community ~~]***Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 52. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B,[~~ on or before January 1, 1995,~~] the University of Kentucky, Eastern Kentucky University, Morehead State University, ***the University of Kentucky Community College System, and*** the ***Kentucky***[~~ Community~~]***Technical*** College System[~~ of the University of Kentucky, and the Kentucky Tech System~~] in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) ***A***[~~No~~] state agency provider of workforce training shall ***not*** reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 53. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term[~~, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992~~]. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 54. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky

Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education, Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall ***not*** receive[~~ no~~] compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 55. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 56. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

(b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Cabinet for Workforce Development;[~~ and~~]

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

(h) The president of the Kentucky Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 57. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***[~~Higher~~] Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***[~~Higher~~] Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 58. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***[~~Higher~~] Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 59. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***[~~Higher~~] Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 60. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or

inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***[~~Higher~~] Education for educational institutions under their jurisdiction. ***The***[~~Such~~] rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing; and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 61. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***[~~Higher~~] Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 62. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;

2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;

3. One (1) member representative of local boards of education; and

4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 63. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education[~~ no later than December 1, 1993,~~] that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 64. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community[~~ or junior~~] colleges established under the control of these universities***, and the Kentucky Technical College System and any technical institutions established under its control***;

(c) ***State-operated secondary***[~~State and~~] area vocational ***education or area technology centers***[~~schools~~], Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

(l) The Department of Vocational Rehabilitation;

(m) The Kentucky Educational Collaborative for State Agency Children;

(n) The Governor's Scholars Program; and

(o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 65. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions[~~ of higher education~~] who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***[~~pursuant to~~] KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions[~~ of higher education~~];

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions[~~ of higher education~~]; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 66. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions[~~ of higher education~~] identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution[~~ of higher education~~] which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their

employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 67. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***~~[Higher]~~ Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***~~[Higher]~~ Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution~~[of higher education]~~, the Council on ***Postsecondary***~~[Higher]~~ Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***~~[Higher]~~ Education Student Advisory Committee;
3. Associations representing faculty from universities***,*** ~~[and]~~ community colleges***, and technical colleges***;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321,~~[and]~~ 164.821***,*** and ~~[to the Council on Higher Education pursuant to KRS]~~164.011~~[, except the student member]~~. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***~~[Higher]~~ Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 68. KRS 164.0053 is amended to read as follows:

(1) ***An***[~~No~~] appointing authority shall ***not*** appoint himself or his spouse, or the Governor or his spouse***,*** to a[~~ university~~] governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***[~~Higher~~] Education created pursuant to KRS 164.011.

(2) ***A***[~~No~~] full-time employee of a public institution of ***postsecondary***[~~higher~~] education shall ***not*** be eligible to serve on the Council on ***Postsecondary***[~~Higher~~] Education or on the governing board of another institution of ***postsecondary***[~~higher~~] education, except the community college faculty representative ***and the technical college faculty and nonteaching personnel*** serving on the ***board of regents for the Kentucky Technical College System and the*** University of Kentucky Board of Trustees.

(3) ***A postsecondary institution shall not award an honorary degree to a sitting governor.***

(4) All[~~ university~~] governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***[~~Higher~~] Education shall ***not*** have ***a***[~~no~~] conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 69. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***[~~shall be~~] a Council on ***Postsecondary***[~~Higher~~] Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***fifteen (15) voting***[~~the chief state school officer, and seventeen (17) lay~~] members appointed by the Governor***: thirteen (13) lay members, one (1) faculty member, and one (1) student member. There shall also be one (1) nonvoting member, the commissioner of education who shall serve ex officio. Lay members shall be appointed to the council with the consent of the Senate and the House of Representatives under KRS 11.160. Lay council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 67 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly***[~~; one (1) from each Supreme Court district, ten (10) at large members which shall include a student member~~].

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 67 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation, assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect the minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve. One (1) member shall be a full-time faculty member employed at a state public institution of higher education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by a majority vote of the faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary institutions. One (1)*** [~~The student~~] member shall be enrolled as a full-time student at a state public institution of ***postsecondary***[~~higher~~] education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions***,*** [~~of higher education and~~] one (1) representative of the community college student body presidents elected from among themselves, ***and the student member on the board of regents for the Kentucky Technical College System*** shall elect by majority vote [~~of the nine (9) presidents~~] three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired***

term in accordance with the procedures established for the original appointments[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each lay member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

- (a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one (1) of which shall be the student member~~];
- (b) ***Two (2) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];
- (c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];
- (d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];
- (e) ***Two (2) appointments shall expire December 31, 2001***[~~Three (3) members shall serve five (5) year terms~~]; and
- (f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) ***The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 70. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) ***Develop and implement the state strategic postsecondary education agenda. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;***

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 80 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities, community colleges, and the Kentucky Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the~~

~~respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Technical College System. The council has sole discretion to devise policies that provide for allocation of funds among the universities, community colleges, and the Kentucky Technical College System. These policies shall reflect a commitment to academic quality and community service;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11)[~~(5)~~] Review and approve all capital construction projects ***covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities, community colleges, and the Kentucky Technical College System;***

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the University of Kentucky Community College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~ or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature.***

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;

(b) Alignment with the priorities in the state strategic postsecondary education agenda;

(c) Elimination of duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall ~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions***that comply with the standards for teacher certification established by the Education Professional Standards Board pursuant to Section 62 of this Act;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment***;***[~~.~~]

(22)[~~(13)~~] ***Maintain***[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[

~~after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee***;***[~~.~~]

(23)[~~(14)~~] Monitor and ***transmit a*** report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee***;***[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state ***postsecondary educational*** institution[~~ of higher education~~] a comprehensive orientation program ***for new members of the council and the***[~~to be carried out by the respective institution for newly appointed~~] governing ***boards***[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning ***the roles of the council, the state strategic postsecondary education agenda and the implementation plan, and*** the respective institution's mission, budget, plans, policies, strengths, and weaknesses***;***[~~.~~]

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and does promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit course work in the state-supported postsecondary education system. The policy shall permit a regular full time employee of a community college, with prior approval from the community college, to take a maximum of six (6) credit hours each term at any state-supported postsecondary institution with tuition being waved by that institution; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 71. KRS 164.0205 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall promote, support, and assist in the program created in KRS 158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 72. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning , ***the chancellor of the community college system, and the president of the Kentucky Technical College System*** shall serve on an advisory conference for the Council on ***Postsecondary***[~~Higher~~] Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on ***Postsecondary***[~~Higher~~] Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on ***Postsecondary***[~~Higher~~] Education will meet with the Advisory Conference of Presidents.

Section 73. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall

admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***[~~Higher~~] Education shall pay to the college not more than two hundred dollars ($200) per school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 74. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 75. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 76. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 77. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees***,*** and qualifications for admission to and reports from their respective institutions.

Section 78. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty-five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 79. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 80. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

(b) "Institution" means public universities, their subdivisions, ***community colleges,*** and the[~~ University of~~] Kentucky ***Technical***[~~Community~~] College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this Act***[~~standards~~]. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***[~~through a collaborative effort involving~~] the ***postsecondary educational***[~~higher education~~] institutions and the Council on ***Postsecondary***[~~Higher~~] Education.

(3) The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:

(a) Educational quality and educational outcomes;

(b) Student progress in the postsecondary system;

(c) Research and service activities;

(d) Use of resources;

(e) Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and

(f) Other indicators as deemed appropriate by the Council on Postsecondary Education.

(4) The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions[~~The accountability process shall be implemented in phases as follows:~~

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry-level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program~~].

(5) [~~(b) Beginning December 1, 1993, ~~]The Council on ***Postsecondary***[~~Higher~~] Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 81. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions[~~ of higher education~~] in the state;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution.

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 82. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) (a) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) ***A***[~~No~~] member of the administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) A member of the board shall not serve more than two (2) consecutive terms.

Section 83. KRS 164.150 is amended to read as follows:

A[~~No~~] member of a governing board of a public institution of ***postsecondary***[~~higher~~] education shall ***not*** be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 84. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 129 of this Act and KRS 45.750(1)(f)*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 85. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher learning~~] in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***[~~Higher~~] Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky.

Section 86. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions[~~ of higher learning~~] is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 87. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution[~~ of higher education~~] is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of ***the***[~~such~~] institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty***,*** and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 88. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~ of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials***,*** or funds by way of gift, grant***,*** or loan for the purpose of higher education***,*** including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials***,*** and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 89. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~ of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 90. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~]

Education may have a faculty member as a voting member of its board of trustees or regents.

Section 91. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees***,*** and programs beyond the masters-degree level to meet the requirements for teachers, school leaders***,*** and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the University of Kentucky Community College System, as provided by this chapter.

Section 92. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Technical College System***[~~(or College)~~].

Section 93. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Technical College System shall consist of eight (8) members appointed by the Governor and three (3) members as described in subsections (6)(b), (7)(b), and (8)(b) of this section. No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~ a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

A member of a board of regents shall not be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for ***the*** original election.

(b) The faculty member of the Kentucky Technical College System shall serve a three (3) year term and until his

successor is named. The faculty representative shall be elected by means of a process established by the board. The faculty member may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Technical College System shall be any full-time staff member excluding a president, vice president, academic dean, academic department chair, or other administrator. The nonteaching personnel member shall represent all nonteaching employees including, but not limited to, support and clerical personnel.. The nonteaching personnel member shall serve a three (3) year term and until his successor is named. The nonteaching personnel member shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) One (1) full-time student member shall be elected to the board of regents for the Kentucky Technical College System. The student member shall be elected by means of a process established by the board. The student member shall serve a one (1) year term beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Technical College System shall be appointed by July 31, 1997.

Section 94. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the ***appropriate institution***[~~university or college~~].

Section 95. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities***,*** and ***of the Kentucky Technical College System, a***[~~state colleges, no~~] person who is a member of either house of the Kentucky General Assembly shall ***not*** serve as a member of the board of trustees or board of regents of any state-supported ***institution***[~~college or university~~].

Section 96. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the ***institution***[~~university or college~~] or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 97. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and ***the Kentucky Technical College System***[~~colleges~~] is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a)[~~(1)~~] Receive grants of money and expend the same for the use and benefit of the university or college;

(b)[~~(2)~~] Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;

(c)[~~(3)~~]Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;

(d)[~~(4)~~] Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and

(e)[~~(5)~~]Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system;

(b) Adopt a consolidated budget request upon the recommendation of the president of the system for submission to the Council on Postsecondary Education for approval;

(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and

(d) Assure that the budget planning and implementation processes are consistent with the adopted long-term and biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.

Section 98. KRS 164.351 is amended to read as follows:

(1) State colleges and universities ***and the Kentucky Technical College System*** shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state ***technical institution, community*** college, or university shall inform students of the name and telephone number of a ***technical institution, community college,*** college, or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 99. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state-supported institution of ***postsecondary education***[~~higher learning~~] provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 100. KRS 164.360 is amended to read as follows:

(1) ***(a)*** Each board of regents ***for the universities*** may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) ***A***[~~No~~] person shall ***not*** be employed for a longer period than four (4) years. ***A***[~~No~~] person shall ***not*** be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or ***the Kentucky Technical College System***[~~college~~], and upon

the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 101. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries, and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University ***and the Kentucky Technical College System***, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.

Section 102. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Technical College System*** shall establish[~~ such~~] incidental fees and nonresident tuition fees [~~as will be~~] sufficient for the purpose of paying the incidental expenses of the university or college and [~~as are~~] consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. [~~No ~~]Money derived from nonresident tuition or other fees paid by students shall ***not*** be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 103. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 129 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase, and hold property ***under Section 129 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 129 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 104. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount, and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 105. KRS 164.4781 is amended to read as follows:

[~~By the beginning of the 1986-87 school year, ~~]There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***[~~Higher~~] Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.[~~ By the beginning of the 1987-88 school year,~~] The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 106. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate

in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***~~[Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races]~~.

Section 107. KRS 164.600 is amended to read as follows:

(1) There shall be a~~[local advisory]~~ board ***of directors*** for each community college, except as provided in KRS 165.160. Each~~[local advisory]~~ board ***of directors*** shall***:***

(a) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

(b) Approve budget requests for recommendation to the president;

(c) Review and approve an annual operating budget and submit it to the board of trustees for approval as to the compliance with its guidelines; and

(d) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents; and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education~~[serve in an advisory capacity to the board and the head of the community college on the operation of the community college]~~.

(2) The president of each community college shall have full authority and discretion regarding the use and management of the approved budget.

(3)~~[(2)]~~ Each~~[local advisory]~~ board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)~~[local advisory]~~ board members shall be one (1) member of the teaching faculty and one (1) member of the student body.~~[After July 13, 1990,]~~ An appointed member's term ***shall be***~~[is]~~ six (6) years~~[; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years]~~.

(4)~~[(3)]~~ The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the~~[local advisory]~~ boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5)~~[(4)]~~ The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6)~~[(5)]~~ ***The***~~[Local advisory board]~~ members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

Section 108. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school

of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Technical System***[~~State Board for Adult and Technical Education~~] and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 109. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding

year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 110. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***[~~Higher~~] Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***[~~Higher~~] Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 111. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent[~~, nonprofit~~] college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 112. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

(b) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance

of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 113. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

- (a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate degree programs of instruction;
- (b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;
- (c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 114. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

- ***(a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act as a condition of their service.***
- ***(b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.***
- ***(c) An appointed member shall not serve more than two (2) consecutive terms.***

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

- (a) Two (2) members shall serve one (1) year terms;
- (b) Three (3) members shall serve two (2) year terms;
- (c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;
- (d) Three (3) members shall serve four (4) year terms;
- (e) Three (3) members shall serve five (5) year terms; and
- (f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) ***A***[~~No~~] member of the teaching or administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 115. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***[~~such~~] removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***[~~such~~] other officers as it deems wise, including the annual election of a ***six (6)***[~~five (5)~~] member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***[~~such~~] rules[~~ as~~] the board shall establish under its authority to make [~~such ~~]bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of[~~ such~~] reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 116. KRS 164.915 is amended to read as follows:

The[~~By July 1, 1991, the~~] Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***[~~Higher~~] Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 117. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on ***Postsecondary***[~~Higher~~] Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 118. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The

residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***~~[Higher]~~ Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***~~[Higher]~~ Education using the following criteria:

(a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

(b) The scope and volume of patient care;

(c) The amount of available physical facilities;

(d) The current number and types of residency positions offered at each university;

(e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

(f) The extent of involvement in education in primary care in ambulatory care settings; and

(g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***~~[Higher]~~ Education.

Section 119. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***~~[Higher]~~ Education shall coordinate the activities of the participating institutions, as described in KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 120. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***~~[Higher]~~ Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 121. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated

purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***~~[herein]~~ shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers***,*** or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 122. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

  (a) Irregularity and impairment in communication;

  (b) Engagement in repetitive activity and stereotyped movement;

  (c) Resistance to environmental change or change in daily routine; and

  (d) Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 123. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky is authorized to operate a state autism training center, including:

  (a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;

  (b) The construction of necessary buildings;

  (c) The expansion, remodeling, altering, or equipping of necessary buildings; and

  (d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 124. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of

the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 125. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky recognized in KRS 164.100, 164.290, ***Section 17 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 126. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

  (a) The treasurer of the ***institution***[~~university~~] shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

(b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 127. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***[~~university~~] making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

(a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

(b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

(c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

(d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

(e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);

2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and

3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***[~~Higher~~] Education. The report shall meet the requirements of the council's system of uniform financial

reporting for institutions of higher education.

Section 128. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***[~~university~~] making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, and members of the governing board.

Section 129. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

  (a) Contractual services where no competition exists[~~, such as telephone service, electrical energy, and other public utility services~~];

  (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

  (c) Instructional materials available from only one (1) source;

  (d) Where rates are fixed by law or ordinance;

  (e) Library books;

  (f) Commercial items that are purchased for resale;

  (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

  (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

  (i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or ***lessor***[~~leasor~~] approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along

with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 130. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***[~~Higher~~] Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 131. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Technical College System***[~~;but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council~~];

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

    (a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

    (b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

    (a) In aid of education; and

    (b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 132. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***[~~Higher~~] Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 133. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 134. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***[~~Higher~~] Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members..

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 135. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***president of the Kentucky Technical College System***~~[state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education]~~ shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 136. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on ***Postsecondary***~~[Higher]~~ Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 137. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.

164.575 Definition for KRS 164.575 to 164.600.

164.582 Definition for KRS 164.583.

186.1865 Special Kentucky Tech license plates.

Section 138. Whereas it is critical that an orderly transfer be made to establish the Kentucky Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for the Department for Technical Education, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, and other funds designated for these purposes, and transfer of the personnel and funds to the new system shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue*,* and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Technical College System is employed by the board of regents for the Kentucky Technical College System.

Section 139. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 140. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 43 to the Committee Substitute No. 2 to **HB 1**, by Representative Treesh:

On page 110, line 23, after the word "of" by deleting "***fifteen (15) voting***"; and

On page 110, line 24, before the word "members" by inserting "***the commissioner of education, a faculty member, a student member, and thirteen (13) citizen***", by inserting a period after the word "Governor", and by deleting the words "***with the***"; and

On page 110, line 25, by deleting "***consent of***" and inserting in lieu thereof "***The citizen members shall be confirmed by***"; and

On page 110, line 26, by deleting "***, who***"; and

On page 110, line 27, by deleting "***Appointive***" and inserting in lieu thereof "***Citizen***"; and

On page 111, line 19, by beginning a new subsection after "***serve.***", and by inserting before the word "***One***":
"***(3)***"; and after the word "***One***" by inserting "***(1)***"; and

On page 111, line 20, by deleting "***public***"; and

On page 111, line 21, by deleting "***higher***" and inserting in lieu thereof "***postsecondary***"; and

On page 111, line 24, after the word "***(9)***" by deleting "***four-year state***"; and

On page 111, line 25, by deleting all words before the period, and by inserting in lieu thereof "***postsecondary education institutions***"; and

On page 111, line 25, by beginning a new subsection after "***system.***", and by inserting before the word "***One***":
"***(4)***"; and

On page 111, line 27, by bracketing and striking through "public" and by bracketing and striking through "higher" and inserting in lieu thereof "***postsecondary***"; and

On page 112, line 2, after the word "and" by inserting "***the two (2) student members to the Kentucky Community and Technical College System***" and by inserting before the word "one" an opening bracket and striking through "one (1)"; and

On page 112, line 3, by striking through the entire line; and

On page 112, line 4, by striking through and placing a closing bracket after "themselves,", after the word "vote" by bracketing and striking through "of the nine (9) presidents"; and

On page 112, line 7, by inserting "***(5)***" before "(3)" and by bracketing and striking through "(3)"; and

On page 112, line 19, by inserting "***(6)***" before "(4)" and by bracketing and striking through "(4)"; and

On page 112, line 19, by deleting the word "***appointive***" and inserting in lieu thereof "***citizen***"; and

On page 112, line 23, by deleting "***(3)***" and inserting in lieu thereof "***(2)***"; and

On page 112, line 25, by deleting "***(4)***" and inserting in lieu thereof "***(3)***"; and

On page 113, line 8, by inserting "***(7)***" before "(5)" and by bracketing and striking through "(5)"; and

On page 113, line 12, by inserting "***(8)***" before "(6)" and by bracketing and striking through "(6)"; and

On page 113, line 20, by deleting "***(7)***" and inserting in lieu thereof "***(9)***"; and

On page 113, line 22, by deleting "***(8)***" and inserting in lieu thereof "***(10)***"; and

On page 113, line 23, by deleting "***(9)***" and inserting in lieu thereof "***(11)***"; and

On page 114, line 1, by deleting "***(10)***" and inserting in lieu thereof "***(12)***".

Floor Amendment No. 44 to Floor Amendment No. 42 to the Committee Substitute No. 2 to **HB 1**, by Representative Stumbo:

On page 22, between lines 11 and 12, by inserting the following:

"***(3) (a) A faculty member or a staff employee of the Kentucky Technical College System shall have a vested contract right to continued employment and shall be subject to termination or other disciplinary personnel action only upon occurrence of one (1) or more of the following:***

1. Just cause for dismissal or other disciplinary personnel action; or

2. Layoff of faculty or staff employed by the board due to a financial emergency.

(b) No administrator, faculty, or staff of the system shall be dismissed or penalized except for incompetence or neglect of or refusal to perform duties."; and

On page 22, line 12, by deleting "*(3)*" and inserting "*(4)*" in lieu thereof; and

On page 133, between lines 24 and 25, by inserting the following new language:

"*(3) The board of regents for the Kentucky Technical College System shall establish a salary schedule for all faculty and staff of the system. The salary schedule shall be based on the faculty person or staff person's years of service within the system and all credentials, including but not limited to, education, professional awards, and career development training. The board shall update the salary schedule annually. A faculty person or a staff person shall not lose salary or compensation as a consequence of the establishment of the salary schedule.*

(4) Upon receipt of a written authorization from an employee of the Kentucky Technical College System, the board shall deduct dues from the employee's paycheck for employee membership organizations. Dues shall be deducted at a rate established by the organization, and shall be discontinued upon written notification by an employee to both the system and the employee organization. On a quarterly basis, the Kentucky Technical College System shall provide to each employee membership organization an updated list that includes the names and home addresses of the employees who are having dues deducted from their paychecks for the purpose of maintaining membership in that organization.".

Floor Amendment No. 45 to the Committee Substitute No. 1 to **HB 1**, by Representative Barrows:

On page 1, after the enacting clause, by deleting the remainder of the bill in its entirety and inserting in lieu thereof the following:

"Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development of a well-educated and highly-trained workforce; and

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

(d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that ensures, in conjunction with other postsecondary institutions, reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Technical College System;

(4) "Board of regents" means the governing board of each regional university and the Kentucky Technical College System;

(5) "Council" means the Council on Postsecondary Education created in Section 69 of this Act;

(6) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(7) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Technical College System;

(8) "Kentucky Technical College System" means:

(a) The postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

(b) Institutions created by the board of regents for the Kentucky Technical College System and approved by the General Assembly;

(9) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(10) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(11) "Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(12) "Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, the University of Kentucky Community College System, and the Kentucky Technical College System;

(13) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(14) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(15) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(16) "Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and

(17) "Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

There shall be a search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. The committee shall be composed of the chair of the Council on Postsecondary Education and seven (7) members of the council designated by the chair; the governor and seven (7) persons designated by the governor; and the members of the Legislative Research Commission. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group. There shall be unanimous agreement among the groups.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and

conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 70 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(11) Once appointed, the president shall serve at the pleasure of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the

following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 80 of this Act, and the degree to which the unnecessary duplication of programs has been reduced among postsecondary institutions and low performance programs have been eliminated.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

(7) (a) No later than six (6) months following the appointment of the first president of the Council on Postsecondary Education, the council shall adopt short-term strategies, objectives, and benchmarks for cooperation and collaboration between the University of Kentucky Community Colleges and the Kentucky Technical College System and for the reduction of unnecessary duplication to carry out the goals established in Section 2 of this Act. The strategies shall include, but not be limited to, the responsiveness to regional needs, the quality of programs, student ability to easily transfer programs, the number of articulation agreements, and the degree to which the two (2) systems promote achievement of the strategic agenda.

(b) The chancellor of the Community College System and the president of the Kentucky Technical College System shall meet at least quarterly to review progress toward meeting the short-term strategies developed pursuant to paragraph (a) of this subsection. Following each meeting, they shall submit a progress report to the president of the Council on Postsecondary Education.

(c) The Council on Postsecondary Education shall review the progress made in meeting the short-term objectives and benchmarks over a five (5) year period to determine the advisability of changing the governance of the University of Kentucky Community College System and the Kentucky Technical College System as a long-term strategy to achieve the goals.

(8) In developing the strategic agenda for postsecondary education, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda for postsecondary education, the council shall distribute a copy to each local school district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, community college, Kentucky Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized

applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities, community colleges, and institutions in the Kentucky Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and

advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Technical College System is established and shall provide services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state. It shall serve as the entry point for employers and agencies seeking customized training to the extent possible.

(2) The Kentucky Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

- *(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;*
- *(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;*
- *(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;*
- *(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;*
- *(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;*
- *(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;*
- *(g) Enhance the flexibility and adaptability of Kentucky workers in an ever-changing and global economy through continuing education and customized training for business and industry;*
- *(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and*
- *(i) Improve the quality of life for Kentucky's citizens.*

(3) The board of regents for the Kentucky Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(4) The president through the faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

(5) The president shall seek to offer an accredited associate degree in applied science by the year 2010.

(6) The board of regents shall award a degree to any student of the Kentucky Tech System who prior to the effective date of this Act earned a diploma or certificate from a program meeting the standard for a degree by making application

to the board within five (5) years of the establishment of the degree program.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Technical College System shall be appointed from candidates selected in a search by a search committee.

(2) The president shall possess the necessary skills to guide and direct the institutional mission of the system.

(3) The president shall be responsible for:

(a) Administering the programs and services for the system;

(b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff;

(c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;

(d) Supervising the development of policies within the overall framework of the system;

(e) Advocating the needs of the students, institutions, and staff under the president's jurisdiction;

(f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the universities, community colleges, and the technical institutions;

(g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;

(h) Preparing accountability reports and other reports as needed;

(i) Preparing internal budget plans; and

(j) Other duties as identified by the Council on Postsecondary Education.

(4) The president shall serve at the pleasure of the board.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the Kentucky Technical College System.

(a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 64 of this Act or the Kentucky Employees Retirement System under Section 34 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs; and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development. Except that the board of regents for the Kentucky Technical College System shall establish a personnel dispute resolution system that results, in the final stage, in an independent third party appeal for all employees of the Kentucky Technical College System. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Technical College System shall be governed by the rules and regulations established by the board.

(3) A regular full time employee may, with prior administration approval, take a maximum of six (6) credit hours each term at any state supported postsecondary institution with tuition being waved by that institution.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policy makers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities, community colleges, and the Kentucky Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 24. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999, and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:

(a) A baseline analysis and projections of economic conditions and outlook;

(b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and

(c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 25. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
        (1) Kentucky Board of Education.
        (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Office of Development.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Office of Legal Services.
    (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
    (a) Department of Highways.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.
    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Office of Aeronautics.
    (g) Office of General Counsel.
    (h) Office of Public Relations.
    (i) Office of Personnel Management.
    (j) Office of Minority Affairs.
    (k) Office of Environmental Affairs.
5. Cabinet for Economic Development:
    (a) Department of Administration and Support.
    (b) Department of Job Development.
    (c) Department of Financial Incentives.
    (d) Department of Community Development.
    (e) Tobacco Research Board.
    (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor Management Relations.
    (m) Office of General Counsel.
    (n) Workers' Compensation Funding Commission.
    (o) Employers Mutual Insurance Authority.
10. Revenue Cabinet:
    (a) Department of Property Taxation.
    (b) Department of Compliance and Taxpayer Assistance.
    (c) Department of Administrative Services.
    (d) Office of General Counsel.
11. Tourism Cabinet:
    (a) Department of Travel Development.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of Film Promotion.
    (h) Office of General Counsel.
12. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workforce Analysis and Research.
    (o) Office for Administrative Services.
    (p) Office for Policy, Budget, and Personnel.

(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on ***Postsecondary***[~~Higher~~] Education.
   (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 26. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***[~~Higher~~] Education[~~ (The state universities and colleges shall report through the Council on Higher Education)~~];

(2) Department of Military Affairs;

(3) Department of Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs; and

(7) Coal Marketing and Export Council.

Section 27. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***[~~of higher education~~] pertaining to students attending or applicants to ***the***[~~such~~] institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 28. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;[~~ and~~]

(z) Employees of the Kentucky Peace Corps***; and***

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided ***in KRS 18A.005 to 18A.200***[~~herein~~].

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted towards years of experience for calculating benefits and compensation.

Section 29. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle

Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 30. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 31. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,[~~ and~~] Eastern Kentucky University***, and the Kentucky Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

 (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

 (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 32. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

 (b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

  1. Turnpike Authority of Kentucky;

  2. Kentucky Housing Corporation;

  3. Kentucky Infrastructure Authority;

  4. Kentucky Higher Education Student Loan Corporation;

  5. Kentucky River Authority;

6. Kentucky Agricultural Finance Corporation; and

7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;

2. Murray State University;

3. Western Kentucky University;

4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;

5. Northern Kentucky University;

6. Kentucky State University;

7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;

8. Morehead State University;[~~ and~~]

9. Eastern Kentucky University***; and***

10. Kentucky Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 33. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state[~~ colleges or~~] universities***, the Kentucky Technical College System,*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state[~~ college or of the~~] university ***or the Kentucky Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 34. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in

service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***~~[Higher]~~ Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);~~[and]~~

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as members; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Technical College System.

Section 35. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 36. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;

(c) The ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The chief state school officer or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) The executive director of the Public Service Commission or his designee;

(k) One (1) representative of local governments to be appointed by the Governor; and

(l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 37. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 38. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,[~~ and~~] Murray State University***, and the Kentucky Technical College System***, and members of the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall not be removed except for cause.

Section 39. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the

Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Technical College System***[~~Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet~~];

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The ***president of the Kentucky Technical College System***[~~commissioner of the Department for Adult and Technical Education~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions[~~ hereunder~~].

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 40. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered***:***[~~;~~]

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***[~~;~~]

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 41. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***~~[herein]~~.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of~~[nondegree programs in post-secondary and vocational-technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools,]~~ state-operated ***secondary*** area vocational education ***and technology*** centers~~[, state technical institutes, and technology centers]~~. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***~~[Kentucky Board of Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education]~~. ***In addition to direct appropriations, funds appropriated to support*** the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching ***specialties***[~~specialities~~]. [~~Such~~]Agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***[~~45~~]. All[~~ such~~] agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 42. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.[~~ The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.~~]

(2) There is hereby created a Division of ***Administrative***[~~Federal Programs and Support~~] Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***[~~the Kentucky Tech System~~] within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***[~~vocational technical schools and~~] area ***vocational education and technology*** centers[~~ known as the Kentucky Tech System~~]. The office shall be composed of the Division of School ***Management***[~~Operations~~], the Division of ***Curriculum Services***[~~Program Management~~], an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 43. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the ***state-operated area vocational education and technology centers***[~~Kentucky Tech System~~] school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) ***An***[~~No~~] administrative body other than the State Board for Adult and Technical Education shall ***not*** promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. [~~Such~~]Designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted toward years of experience for calculating benefits and compensation.

Section 44. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***[~~schools~~] shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 45. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not***

operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Technical College System[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.~~]

Section 46. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 47. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Technical College System and other postsecondary institutions. A*** [~~when feasible. No~~] public institution of higher education[~~, including the community colleges,~~] shall ***not*** offer any[~~ new~~] program of a vocational-technical-occupational nature below the associate degree level without the consent of the[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System and the approval of the Council on Postsecondary*** Education. The[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System***[~~Education~~], with approval of the Council on ***Postsecondary***[~~Higher~~] Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 48. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***[~~vocational-technical schools and~~] area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for[~~ postsecondary pupils and~~] adults who are enrolled ***in secondary programs*** in the state- operated[~~ vocational-technical schools and~~] area vocational education ***and technology*** centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Technical College System***.[~~ The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.~~]

Section 49. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***[~~vocational-technical schools~~] and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***[~~state vocational-technical~~] schools ***under its jurisdiction***[~~and area vocational education centers~~]. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary[~~ and postsecondary~~] students[~~ and adults~~], the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 50. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to, the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The ***president of the Kentucky Technical College System***~~[commissioner of the Department for Technical Education]~~;

(g) The commissioner of the Department for Adult Education and Literacy;

(h) The commissioner of the Department for the Blind;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on ***Postsecondary***~~[Higher]~~ Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public

office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 51. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***~~[chairman]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Cabinet for Workforce Development and the ***president***~~[chancellor]~~ of the~~[University of]~~ Kentucky ~~[Community]~~***Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 52. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B,~~[on or before January 1, 1995,]~~ the University of Kentucky, Eastern Kentucky University, Morehead State University, ***the University of Kentucky Community College System, and*** the ***Kentucky***~~[Community]~~***Technical*** College System~~[of the University of Kentucky, and the Kentucky Tech System]~~ in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) ***A***~~[No]~~ state agency provider of workforce training shall ***not*** reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-

secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 53. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term[~~, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992~~]. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 54. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education, Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall ***not*** receive[~~ no~~] compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 55. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 56. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

(b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Cabinet for Workforce Development;[~~ and~~]

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

(h) The president of the Kentucky Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 57. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***[~~Higher~~] Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***[~~Higher~~] Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 58. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***[~~Higher~~] Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 59. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***[~~Higher~~] Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 60. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***[~~Higher~~] Education for educational institutions under their jurisdiction. ***The***[~~Such~~] rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing; and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 61. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***[~~Higher~~] Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The

Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 62. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 63. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***~~[Higher]~~ Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education~~[no later than December 1, 1993,]~~ that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 64. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community[~~ or junior~~] colleges established under the control of these universities***, and the Kentucky Technical College System and any technical institutions established under its control***;

(c) ***State-operated secondary***[~~State and~~] area vocational ***education or area technology centers***[~~schools~~], Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

(l) The Department of Vocational Rehabilitation;

(m) The Kentucky Educational Collaborative for State Agency Children;

(n) The Governor's Scholars Program; and

(o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement

System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

   (a) The member's actual salary; or

   (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 65. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions~~[of higher education]~~ who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***~~[pursuant to]~~ KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific

provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions[~~ of higher education~~];

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions[~~ of higher education~~]; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 66. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions[~~ of higher education~~] identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution[~~ of higher education~~] which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 67. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution[~~ of higher education~~], the Council on ***Postsecondary***[~~Higher~~] Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***[~~Higher~~] Education Student Advisory Committee;
3. Associations representing faculty from universities***,*** [~~and~~] community colleges***, and technical colleges***;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a

successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321,[~~ and~~] 164.821***,*** and [~~to the Council on Higher Education pursuant to KRS~~]164.011[~~, except the student member~~]. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***[~~Higher~~] Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 68. KRS 164.0053 is amended to read as follows:

(1) ***An***[~~No~~] appointing authority shall ***not*** appoint himself or his spouse, or the Governor or his spouse***,*** to a[~~ university~~] governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***[~~Higher~~] Education created pursuant to KRS 164.011.

(2) ***A***[~~No~~] full-time employee of a public institution of ***postsecondary***[~~higher~~] education shall ***not*** be eligible to serve on the Council on ***Postsecondary***[~~Higher~~] Education or on the governing board of another institution of ***postsecondary***[~~higher~~] education, except the community college faculty representative ***and the technical college faculty and nonteaching personnel*** serving on the ***board of regents for the Kentucky Technical College System and the*** University of Kentucky Board of Trustees.

(3) ***A postsecondary institution shall not award an honorary degree to a sitting governor.***

(4) All[~~ university~~] governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***[~~Higher~~] Education shall ***not*** have ***a***[~~no~~] conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 69. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***[~~shall be~~] a Council on ***Postsecondary***[~~Higher~~] Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***fifteen (15) voting***[~~the chief state school officer, and seventeen (17) lay~~] members appointed by the Governor***: thirteen (13) lay members, one (1) faculty member, and one (1) student member. There shall also be one (1) nonvoting member, the commissioner of education who shall serve ex officio. Lay members shall be appointed to the council with the consent of the Senate***

and the House of Representatives under KRS 11.160. Lay council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 67 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly[~~: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member~~].

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 67 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation, assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect the minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve. One (1) member shall be a full-time faculty member employed at a state public institution of higher education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by a majority vote of the faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary institutions. One (1)*** [~~The student~~] member shall be enrolled as a full-time student at a state public institution of ***postsecondary***[~~higher~~] education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions***,*** [~~of higher education and~~] one (1) representative of the community college student body presidents elected from among themselves, ***and the student member on the board of regents for the Kentucky Technical College System*** shall elect by majority vote [~~of the nine (9) presidents~~] three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments***[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each lay member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

- (a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one (1) of which shall be the student member~~];
- (b) ***Two (2) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];
- (c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];
- (d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];
- (e) ***Two (2) appointments shall expire December 31, 2001***[~~Three (3) members shall serve five (5) year terms~~]; and
- (f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) ***The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of

eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 70. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) ***Develop and implement the state strategic postsecondary education agenda. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;***

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 80 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities, community colleges, and the Kentucky Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Technical College System. The council has sole discretion to devise policies that provide for allocation of funds among the universities, community colleges, and the Kentucky Technical College System. These policies shall reflect a commitment to academic quality and community service;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher~~

~~education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11)[~~(5)~~] Review and approve all capital construction projects ***covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities, community colleges, and the Kentucky Technical College System;***

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the University of Kentucky Community College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~ or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature.***

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;

(b) Alignment with the priorities in the state strategic postsecondary education agenda;

(c) Elimination of duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions ***that comply with the standards for teacher certification established by the Education Professional Standards Board pursuant to Section 62 of this Act;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment***;***[~~.~~]

(22)[~~(13)~~] ***Maintain***[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[~~ after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee***;***[~~.~~]

(23)[~~(14)~~] Monitor and ***transmit a*** report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee***;***[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state ***postsecondary educational*** institution[~~ of higher education~~] a comprehensive orientation program ***for new members of the council and the***[~~to be carried out by the respective institution for newly appointed~~] governing ***boards***[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning ***the roles of the council, the state strategic postsecondary education agenda and the implementation plan, and*** the respective institution's mission, budget, plans, policies, strengths, and weaknesses***;***[~~.~~]

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and does promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit course work in the state-supported postsecondary education system. The policy shall permit a regular full time employee of a community college, with prior approval from the community college, to take a maximum of six (6) credit hours each term at any state-supported postsecondary institution with tuition being waved by that institution; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 71. KRS 164.0205 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall promote, support, and assist in the program created in KRS 158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 72. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning , ***the chancellor of the community college system, and the president of the Kentucky Technical College System*** shall serve on an advisory conference for the Council on ***Postsecondary***[~~Higher~~] Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on ***Postsecondary***[~~Higher~~] Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on ***Postsecondary***[~~Higher~~] Education will meet with the Advisory Conference of Presidents.

Section 73. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***[~~Higher~~] Education shall pay to the college not more than two hundred dollars ($200) per school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 74. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 75. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or

when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 76. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 77. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees, and qualifications for admission to and reports from their respective institutions.

Section 78. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty-five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 79. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 80. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

(b) "Institution" means public universities, their subdivisions, ***community colleges,*** and the[~~ University of~~] Kentucky ***Technical***[~~Community~~] College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this Act***[~~standards~~]. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***[~~through a collaborative effort involving~~] the ***postsecondary educational***[~~higher education~~] institutions and the Council on ***Postsecondary***[~~Higher~~] Education.

(3) The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:

(a) Educational quality and educational outcomes;

(b) Student progress in the postsecondary system;

(c) Research and service activities;

(d) Use of resources;

(e) Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and

(f) Other indicators as deemed appropriate by the Council on Postsecondary Education.

(4) The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions[~~The accountability process shall be implemented in phases as follows:~~]

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry-level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program~~].

(5) [~~(b) Beginning December 1, 1993,~~]The Council on ***Postsecondary***[~~Higher~~] Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 81. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions[~~ of higher education~~] in the state;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution.

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 82. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an

orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) (a) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) ***A***[~~No~~] member of the administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) A member of the board shall not serve more than two (2) consecutive terms.

Section 83. KRS 164.150 is amended to read as follows:

A~~[No]~~ member of a governing board of a public institution of ***postsecondary***~~[higher]~~ education shall ***not*** be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 84. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 129 of this Act and KRS 45.750(1)(f)*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 85. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all ***state***~~[public]~~ supported ***postsecondary educational*** institutions~~[of higher learning]~~ in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***~~[Higher]~~ Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***~~[public]~~ supported ***postsecondary educational*** institutions~~[of higher education]~~ in Kentucky.

Section 86. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions~~[of higher learning]~~ is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 87. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution~~[of higher education]~~ is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of

the[~~such~~] institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty***,*** and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 88. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~ of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials***,*** or funds by way of gift, grant***,*** or loan for the purpose of higher education***,*** including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials***,*** and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 89. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~ of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 90. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~] Education may have a faculty member as a voting member of its board of trustees or regents.

Section 91. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees***,*** and programs beyond the masters-degree level to meet the requirements for teachers, school leaders***,*** and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the University of Kentucky Community College System, as provided by this chapter.

Section 92. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Technical College System***[~~(or College)~~].

Section 93. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Technical College System shall consist of eight (8) members appointed by the Governor and three (3) members as described in subsections (6)(b), (7)(b), and (8)(b) of this section. No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~ a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

A member of a board of regents shall not be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for ***the*** original election.

(b) The faculty member of the Kentucky Technical College System shall serve a three (3) year term and until his successor is named. The faculty representative shall be elected by means of a process established by the board. The faculty member may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Technical College System shall be any full-time staff member excluding a president, vice president, academic dean, academic department chair, or other administrator. The nonteaching personnel member shall represent all nonteaching employees including, but not limited to, support and clerical personnel. The nonteaching personnel member shall serve a three (3) year term and until his successor is named. The nonteaching personnel member shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) One (1) full-time student member shall be elected to the board of regents for the Kentucky Technical College System. The student member shall be elected by means of a process established by the board. The student member shall serve a one (1) year term beginning with the first meeting of the fiscal year that contains the

academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Technical College System shall be appointed by July 31, 1997.

Section 94. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the *appropriate institution*[~~university or college~~].

Section 95. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities*,* and *of the Kentucky Technical College System, a*[~~state colleges, no~~] person who is a member of either house of the Kentucky General Assembly shall *not* serve as a member of the board of trustees or board of regents of any state-supported *institution*[~~college or university~~].

Section 96. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the *institution*[~~university or college~~] or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 97. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and *the Kentucky Technical College System*[~~colleges~~] is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges*,* and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a)[~~(1)~~] Receive grants of money and expend the same for the use and benefit of the university or college;

(b)[~~(2)~~] Adopt bylaws, rules*,* and regulations for the government of its members, officers, agents*,* and employees, and enforce obedience to such rules;

(c)[~~(3)~~]Require such reports from the president, officers, faculty*,* and employees as it deems necessary and proper from time to time;

(d)[~~(4)~~] Determine the number of divisions, departments, bureaus, offices*,* and agencies needed for the successful conduct of the affairs of the university or college; and

(e)[~~(5)~~]Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system;

(b) Adopt a consolidated budget request upon the recommendation of the president of the system for submission to the Council on Postsecondary Education for approval;

(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and

(d) Assure that the budget planning and implementation processes are consistent with the adopted long-term and

biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.

Section 98. KRS 164.351 is amended to read as follows:

(1) State colleges and universities ***and the Kentucky Technical College System*** shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state ***technical institution, community*** college, or university shall inform students of the name and telephone number of a ***technical institution, community college,*** college, or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 99. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state-supported institution of ***postsecondary education***[~~higher learning~~] provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 100. KRS 164.360 is amended to read as follows:

(1) ***(a)*** Each board of regents ***for the universities*** may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) ***A***[~~No~~] person shall ***not*** be employed for a longer period than four (4) years. ***A***[~~No~~] person shall ***not*** be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or ***the Kentucky Technical College System***[~~college~~], and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 101. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries, and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University ***and the Kentucky Technical College System***, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.

Section 102. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Technical College System*** shall establish[~~ such~~] incidental fees and nonresident tuition fees [~~as will be~~] sufficient for the purpose of paying the incidental expenses of the university or college and [~~as are~~] consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. [~~No ~~]Money derived from nonresident tuition or other fees paid by students shall ***not*** be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 103. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 129 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase, and hold property ***under Section 129 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the

institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 129 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 104. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount, and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 105. KRS 164.4781 is amended to read as follows:

[~~By the beginning of the 1986-87 school year,~~]There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***[~~Higher~~] Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.[~~ By the beginning of the 1987-88 school year,~~] The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 106. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***[~~Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races~~].

Section 107. KRS 164.600 is amended to read as follows:

(1) There shall be a[~~ local advisory~~] board ***of directors*** for each community college, except as provided in KRS 165.160. Each[~~ local advisory~~] board ***of directors*** shall***:***

(a) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

(b) Approve budget requests for recommendation to the president;

(c) Review and approve an annual operating budget and submit it to the board of trustees for approval as to the compliance with its guidelines; and

(d) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents; and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education[~~serve in an advisory capacity to the board and the head of the community college on the operation of the community college~~].

(2) The president of each community college shall have full authority and discretion regarding the use and management of the approved budget.

(3)[~~(2)~~] Each[~~ local advisory~~] board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)[~~ local advisory~~] board members shall be one (1) member of the teaching faculty and one (1) member of the student body.[~~ After July 13, 1990,~~] An appointed member's term ***shall be***[~~is~~] six (6) years[~~; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years~~].

(4)[~~(3)~~] The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the[~~ local advisory~~] boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5)[~~(4)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6)[~~(5)~~] ***The***[~~Local advisory board~~] members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

Section 108. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Technical System***[~~State Board for Adult and Technical Education~~] and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 109. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 110. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders

to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 111. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***~~[Higher]~~ Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent~~[nonprofit]~~ college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 112. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

(b) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 113. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

(a) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, associate and baccalaureate degree programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;

(c) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 114. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

(a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act as a condition of their service.

(b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(c) An appointed member shall not serve more than two (2) consecutive terms.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any

time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) ***A***[~~No~~] member of the teaching or administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 115. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint; except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***[~~such~~] removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***[~~such~~] other officers as it deems wise, including the annual election of a ***six (6)***[~~five (5)~~] member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***[~~such~~] rules[~~ as~~] the board shall establish under its authority to make [~~such ~~]bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of[~~ such~~] reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be

held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 116. KRS 164.915 is amended to read as follows:

The~~[By July 1, 1991, the]~~ Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***~~[Higher]~~ Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 117. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on ***Postsecondary***~~[Higher]~~ Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 118. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***~~[Higher]~~ Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***~~[Higher]~~ Education using the following criteria:

   (a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

   (b) The scope and volume of patient care;

   (c) The amount of available physical facilities;

   (d) The current number and types of residency positions offered at each university;

   (e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

   (f) The extent of involvement in education in primary care in ambulatory care settings; and

   (g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***~~[Higher]~~ Education.

Section 119. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***~~[Higher]~~ Education shall coordinate the activities of the participating institutions, as described in KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 120. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***~~[Higher]~~ Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 121. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***~~[herein]~~ shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers***,*** or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 122. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

  (a) Irregularity and impairment in communication;

  (b) Engagement in repetitive activity and stereotyped movement;

  (c) Resistance to environmental change or change in daily routine; and

  (d) Unusual responses to sensory experience.

  The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 123. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky is authorized to operate a state autism training center, including:

  (a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;

  (b) The construction of necessary buildings;

  (c) The expansion, remodeling, altering, or equipping of necessary buildings; and

(d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 124. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***[~~Higher~~] Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 125. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky recognized in KRS 164.100, 164.290, ***Section 17 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 126. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

(a) The treasurer of the ***institution***[~~university~~] shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

(b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 127. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***[~~university~~] making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

(a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

(b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

(c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

(d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

(e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);

2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and

3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such

funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***[~~Higher~~] Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Section 128. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***[~~university~~] making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, and members of the governing board.

Section 129. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

  (a) Contractual services where no competition exists[~~, such as telephone service, electrical energy, and other public utility services~~];

  (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

  (c) Instructional materials available from only one (1) source;

  (d) Where rates are fixed by law or ordinance;

  (e) Library books;

  (f) Commercial items that are purchased for resale;

  (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

  (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

  (i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or ***lessor***[~~leasor~~] approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 130. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***[~~Higher~~] Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 131. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Technical College System***[~~;but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council~~];

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 132. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***[~~Higher~~] Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 133. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 134. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***[~~Higher~~] Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 135. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***president of the Kentucky Technical College System***[~~state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education~~] shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 136. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on ***Postsecondary***[~~Higher~~] Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 137. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.

164.575 Definition for KRS 164.575 to 164.600.
164.582 Definition for KRS 164.583.
186.1865 Special Kentucky Tech license plates.

Section 138. Whereas it is critical that an orderly transfer be made to establish the Kentucky Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for the Department for Technical Education, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, and other funds designated for these purposes, and transfer of the personnel and funds to the new system shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Technical College System is employed by the board of regents for the Kentucky Technical College System.

Section 139. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 140. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 46 to **HB 1**, by Representative Barrows:

On page 1, after the enacting clause, by deleting the remainder of the bill in its entirety and inserting in lieu thereof the following:

"Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development of a well-educated and highly-trained workforce; and

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

(d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that ensures, in conjunction with other postsecondary institutions, reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) *The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.*

(4) *The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.*

(5) *The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.*

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) *"Administrator" means the chief executive officer of the institution;*

(2) *"Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;*

(3) *"Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Technical College System;*

(4) *"Board of regents" means the governing board of each regional university and the Kentucky Technical College System;*

(5) *"Council" means the Council on Postsecondary Education created in Section 69 of this Act;*

(6) *"Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;*

(7) *"Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Technical College System;*

(8) *"Kentucky Technical College System" means:*

(a) *The postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and*

(b) *Institutions created by the board of regents for the Kentucky Technical College System and approved by the General Assembly;*

(9) *"Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;*

(10) *"Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;*

(11) *"Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;*

(12) *"Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, the University of Kentucky Community College System, and the Kentucky Technical College System;*

(13) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(14) *"Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;*

(15) *"Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;*

(16) *"Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and*

(17) *"Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation*.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

There shall be a search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. The committee shall be composed of the chair of the Council on Postsecondary Education and seven (7) members of the council designated by the chair; the governor and seven (7) persons designated by the governor; and the members of the Legislative Research Commission. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group. There shall be unanimous agreement among the groups.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 70 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(11) Once appointed, the president shall serve at the pleasure of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and *workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and*

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 80 of this Act, and the degree to which the unnecessary duplication of programs has been reduced among postsecondary institutions and low performance programs have been eliminated.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

(7) (a) No later than six (6) months following the appointment of the first president of the Council on Postsecondary Education, the council shall adopt short-term strategies, objectives, and benchmarks for cooperation and collaboration between the University of Kentucky Community Colleges and the Kentucky Technical College System and for the reduction of unnecessary duplication to carry out the goals established in Section 2 of this Act. The strategies shall include, but not be limited to, the responsiveness to regional needs, the quality of programs, student ability to easily transfer programs, the number of articulation agreements, and the degree to which the two (2) systems promote achievement of the strategic agenda.

(b) The chancellor of the Community College System and the president of the Kentucky Technical College System shall meet at least quarterly to review progress toward meeting the short-term strategies developed pursuant to paragraph (a) of this subsection. Following each meeting, they shall submit a progress report to the president of the Council on Postsecondary Education.

(c) The Council on Postsecondary Education shall review the progress made in meeting the short-term objectives and benchmarks over a five (5) year period to determine the advisability of changing the governance of the University of Kentucky Community College System and the Kentucky Technical College System as a long-term strategy to achieve the goals.

(8) In developing the strategic agenda for postsecondary education, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda for postsecondary education, the council shall distribute a copy to each local school district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary

education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, community college, Kentucky Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities, community colleges, and institutions in the Kentucky Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Technical College System is established and shall provide services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state. It shall serve as the entry point for employers and agencies seeking customized training to the extent possible.

(2) The Kentucky Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever-changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) The board of regents for the Kentucky Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(4) The president through the faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

(5) The president shall seek to offer an accredited associate degree in applied science by the year 2010.

(6) The board of regents shall award a degree to any student of the Kentucky Tech System who prior to the effective date of this Act earned a diploma or certificate from a program meeting the standard for a degree by making application to the board within five (5) years of the establishment of the degree program.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Technical College System shall be appointed from candidates selected in a search by a search committee.

(2) The president shall possess the necessary skills to guide and direct the institutional mission of the system.

(3) The president shall be responsible for:

(a) Administering the programs and services for the system;

(b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff;

(c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;

(d) Supervising the development of policies within the overall framework of the system;

(e) Advocating the needs of the students, institutions, and staff under the president's jurisdiction;

(f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the universities, community colleges, and the technical institutions;

(g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;

(h) Preparing accountability reports and other reports as needed;

(i) Preparing internal budget plans; and

(j) Other duties as identified by the Council on Postsecondary Education.

(4) The president shall serve at the pleasure of the board.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the Kentucky Technical College System.

(a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be *transferred with each employee;*

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 64 of this Act or the Kentucky Employees Retirement System under Section 34 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs; and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development. Except that the board of regents for the Kentucky Technical College System shall establish a personnel dispute resolution system that results, in the final stage, in an independent third party appeal for all employees of the Kentucky Technical College System. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Technical College System shall be governed by the rules and regulations established by the board.

(3) A regular full time employee may, with prior administration approval, take a maximum of six (6) credit hours each term at any state supported postsecondary institution with tuition being waved by that institution.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor,

business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policy makers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities, community colleges, and the Kentucky Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 24. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999, and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:

(a) A baseline analysis and projections of economic conditions and outlook;

(b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and

(c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 25. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    - (a) Secretary of State.
    - (b) Board of Elections.
    - (c) Registry of Election Finance.
4. Department of Law.
    - (a) Attorney General.
5. Department of the Treasury.
    - (a) Treasurer.
6. Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.

(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Medical Examiner Program.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
(2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.

(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.

    (o) Kentucky Employees Retirement Systems.
    (p) Commonwealth Credit Union.
    (q) State Investment Commission.
    (r) Kentucky Housing Corporation.
    (s) Governmental Services Center.
    (t) Kentucky Local Correctional Facilities Construction Authority.
    (u) Kentucky Turnpike Authority.
    (v) Historic Properties Advisory Commission.

9. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor Management Relations.
    (m) Office of General Counsel.
    (n) Workers' Compensation Funding Commission.
    (o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
    (a) Department of Property Taxation.
    (b) Department of Compliance and Taxpayer Assistance.
    (c) Department of Administrative Services.
    (d) Office of General Counsel.

11. Tourism Cabinet:
    (a) Department of Travel Development.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of Film Promotion.
    (h) Office of General Counsel.

12. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.

(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on ***Postsecondary***[~~Higher~~] Education.
    (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 26. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***[~~Higher~~] Education[~~ (The state universities and colleges shall report through the Council on Higher Education)~~];
(2) Department of Military Affairs;
(3) Department of Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs; and
(7) Coal Marketing and Export Council.

Section 27. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***[~~of higher education~~] pertaining to students attending or applicants to ***the***[~~such~~] institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this

chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

  (a) Commercial enterprises;
  (b) Retail businesses;
  (c) Service businesses;
  (d) Industry;
  (e) Consumers of a product or service; or
  (f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 28. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

  (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
  (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
  (c) Members of boards and commissions;
  (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;
  (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;
  (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
  (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
  (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major

assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;~~[and]~~

(z) Employees of the Kentucky Peace Corps*; and*

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing *in KRS 18A.005 to 18A.200*~~[herein]~~ is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing *in KRS 18A.005 to 18A.200*~~[herein]~~ shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided *in KRS 18A.005 to 18A.200*~~[herein]~~.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted towards

years of experience for calculating benefits and compensation.

Section 29. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 30. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 31. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,[~~ and~~] Eastern Kentucky University***, and the Kentucky Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

  (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

  (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 32. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;~~[and]~~
9. Eastern Kentucky University***; and***
10. ***Kentucky Technical College System***.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 33. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state~~[colleges or]~~ universities***, the Kentucky Technical College System,*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state~~[college or of the]~~ university ***or the Kentucky Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 34. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***[~~Higher~~] Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);[~~ and~~]

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as members; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Technical College System.

Section 35. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;
2. Violates a prohibition established by subsection (3) of this section; or
3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 36. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;

(c) The ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The chief state school officer or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) The executive director of the Public Service Commission or his designee;

(k) One (1) representative of local governments to be appointed by the Governor; and

(l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 37. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;

13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 38. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,~~[and]~~ Murray State University***, and the Kentucky Technical College System***, and members of the Kentucky Board of Education and the Council on ***Postsecondary***~~[Higher]~~ Education shall not be removed except for cause.

Section 39. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Technical College System***~~[Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet]~~;

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The ***president of the Kentucky Technical College System***~~[commissioner of the Department for Adult and Technical Education]~~ and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions~~[hereunder]~~.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 40. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered***:***~~[;]~~

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***~~[;]~~

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 41. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***~~[herein]~~.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of~~[nondegree programs in post-secondary and vocational technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools,]~~ state-operated ***secondary*** area vocational education ***and technology*** centers~~[, state technical institutes, and technology centers]~~. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications

and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***[~~Kentucky Board of Education. Program standards and qualification of staff in the post secondary institutions shall be governed solely by the State Board for Adult and Technical Education~~]. ***In addition to direct appropriations, funds appropriated to support*** the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching ***specialties***[~~specialities~~]. [~~Such~~]Agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***[~~45~~]. All[~~ such~~] agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 42. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.[~~ The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.~~]

(2) There is hereby created a Division of ***Administrative***[~~Federal Programs and Support~~] Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***[~~the Kentucky Tech System~~] within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***[~~vocational technical schools and~~] area ***vocational education and technology*** centers[~~ known as the Kentucky Tech System~~]. The office shall be composed of the Division of School ***Management***[~~Operations~~], the Division of ***Curriculum Services***[~~Program Management~~], an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 43. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with

federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;
(b) Applications;
(c) Certification;
(d) Classification and compensation plans;
(e) Incentive programs;
(f) Selection of employees;
(g) Types of appointments;
(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;
(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;
(j) Extent and duration of the ***state-operated area vocational education and technology centers***[~~Kentucky Tech System~~] school term, use of school days, and extended employment;
(k) Employee evaluations;
(l) Programs to improve the work effectiveness of employees including staff development;
(m) Demotion;
(n) Dismissal;
(o) Layoffs;
(p) Suspensions and other disciplinary measures;
(q) Probationary periods, limited employment status, and continuing employment status;
(r) Promotion;
(s) Transfer;
(t) Appeals; and
(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) ***An***[~~No~~] administrative body other than the State Board for Adult and Technical Education shall ***not*** promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. [~~Such~~]Designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;
(b) Discharge, as provided by this section;
(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;
(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance,

and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted toward years of experience for calculating benefits and compensation.

Section 44. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***[~~schools~~] shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator, or

2. Met with the employee and the evaluator, and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 45. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board

members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Technical College System***[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.~~]

Section 46. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 47. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Technical College System and other postsecondary institutions. A*** [~~when feasible. No~~] public institution of higher education[~~, including the community colleges,~~] shall ***not*** offer any[~~ new~~] program of a vocational-technical-occupational nature below the associate degree level without the consent of the[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System and the approval of the Council on Postsecondary*** Education. The[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System***[~~Education~~], with approval of the Council on ***Postsecondary***[~~Higher~~] Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 48. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***[~~vocational-technical schools and~~] area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for[~~ postsecondary pupils and~~] adults who are enrolled ***in secondary programs*** in the state- operated[~~ vocational-technical schools and~~] area vocational education ***and technology*** centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Technical College System***.[~~ The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.~~]

Section 49. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***[~~vocational-technical schools~~] and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***[~~state vocational-technical~~] schools ***under its jurisdiction***[~~and area vocational education centers~~]. The appropriate group coverage shall be issued by one (1) or more

sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary~~[and postsecondary]~~ students~~[and adults]~~, the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 50. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to, the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The ***president of the Kentucky Technical College System***~~[commissioner of the Department for Technical~~

~~Education~~];

(g) The commissioner of the Department for Adult Education and Literacy;

(h) The commissioner of the Department for the Blind;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 51. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***[~~chairman~~] of the Council on ***Postsecondary***[~~Higher~~] Education, the secretary of the Cabinet for Workforce Development and the ***president***[~~chancellor~~] of the[~~ University of~~] Kentucky [~~Community ~~]***Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 52. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B;[~~ on or before January 1, 1995,~~] the University of Kentucky, Eastern Kentucky University, Morehead State University, ***the University of Kentucky Community College System, and***

the ***Kentucky***[~~ Community~~]***Technical*** College System[~~ of the University of Kentucky, and the Kentucky Tech System~~] in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) ***A***[~~No~~] state agency provider of workforce training shall ***not*** reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 53. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term[~~, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992~~]. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 54. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education, Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;
(b) One (1) member of the House of Representatives;
(c) One (1) member of the Senate; and
(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall ***not*** receive[~~ no~~] compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 55. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 56. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

(b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Cabinet for Workforce Development;[~~ and~~]

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

(h) The president of the Kentucky Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 57. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***[~~Higher~~] Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***[~~Higher~~] Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 58. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;
2. Conduct research in accordance with a comprehensive research design and establish priorities; and
3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***~~[Higher]~~ Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 59. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***~~[Higher]~~ Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 60. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***~~[Higher]~~ Education for educational institutions under their jurisdiction. ***The***~~[Such]~~ rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing; and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 61. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***~~[Higher]~~ Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality

program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 62. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the

General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 63. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***~~[Higher]~~ Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education[~~ no later than December 1, 1993,~~] that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 64. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community[~~ or junior~~] colleges established under the control of these universities***, and the Kentucky Technical College System and any technical institutions established under its control***;

(c) ***State-operated secondary***[~~State and~~] area vocational ***education or area technology centers***[~~schools~~], Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

(l) The Department of Vocational Rehabilitation;

(m) The Kentucky Educational Collaborative for State Agency Children;

(n) The Governor's Scholars Program; and

(o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 65. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions[~~ of higher education~~] who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***[~~pursuant to~~] KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions[~~ of higher education~~];

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions[~~ of higher education~~]; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 66. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions[~~ of higher education~~] identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution[~~ of higher education~~] which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 67. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution[~~ of higher education~~], the Council on ***Postsecondary***[~~Higher~~] Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***~~[Higher]~~ Education Student Advisory Committee;
3. Associations representing faculty from universities***,*** ~~[and]~~ community colleges***, and technical colleges***;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321,~~[and]~~ 164.821***,*** and ~~[to the Council on Higher Education pursuant to KRS]~~164.011~~[, except the student member]~~. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***~~[Higher]~~ Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 68. KRS 164.0053 is amended to read as follows:

(1) ***An***~~[No]~~ appointing authority shall ***not*** appoint himself or his spouse, or the Governor or his spouse***,*** to a~~[university]~~ governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***~~[Higher]~~ Education created pursuant to KRS 164.011.

(2) ***A***~~[No]~~ full-time employee of a public institution of ***postsecondary***~~[higher]~~ education shall ***not*** be eligible to serve on the Council on ***Postsecondary***~~[Higher]~~ Education or on the governing board of another institution of ***postsecondary***~~[higher]~~ education, except the community college faculty representative ***and the technical college faculty and nonteaching personnel*** serving on the ***board of regents for the Kentucky Technical College System and the*** University of Kentucky Board of Trustees.

(3) ***A postsecondary institution shall not award an honorary degree to a sitting governor.***

◆

(4) All[~~ university~~] governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***[~~Higher~~] Education shall ***not*** have ***a***[~~no~~] conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 69. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***[~~shall be~~] a Council on ***Postsecondary***[~~Higher~~] Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***fifteen (15) voting***[~~the chief state school officer, and seventeen (17) lay~~] members appointed by the Governor***: thirteen (13) lay members, one (1) faculty member, and one (1) student member. There shall also be one (1) nonvoting member, the commissioner of education who shall serve ex officio. Lay members shall be appointed to the council with the consent of the Senate and the House of Representatives under KRS 11.160. Lay council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 67 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly***[~~: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member~~].

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 67 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation, assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect the minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve. One (1) member shall be a full-time faculty member employed at a state public institution of higher education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by a majority vote of the faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary institutions. One (1)*** [~~The student~~] member shall be enrolled as a full-time student at a state public institution of ***postsecondary***[~~higher~~] education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions***,*** [~~of higher education and~~] one (1) representative of the community college student body presidents elected from among themselves, ***and the student member on the board of regents for the Kentucky Technical College System*** shall elect by majority vote [~~of the nine (9) presidents~~] three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments***[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each lay member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

(a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one (1) of which shall be the student member~~];

(b) ***Two (2) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];

(c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];

(d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];

(e) ***Two (2) appointments shall expire December 31, 2001***[~~Three (3) members shall serve five (5) year terms~~]; and

(f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on

the council during his term.

(6) ***The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 70. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) ***Develop and implement the state strategic postsecondary education agenda. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;***

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 80 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities, community colleges, and the Kentucky Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Technical College System. The council has sole discretion to devise policies that provide for allocation of funds among the universities, community colleges, and the Kentucky Technical College System. These policies shall reflect a commitment to academic quality and community service;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the~~

~~institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11)[~~(5)~~] Review and approve all capital construction projects ***covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities, community colleges, and the Kentucky Technical College System;***

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the University of Kentucky Community College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~ or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature.***

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;

(b) Alignment with the priorities in the state strategic postsecondary education agenda;

(c) Elimination of duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions ***that comply with the standards for teacher certification established by the Education Professional Standards Board pursuant to Section 62 of this Act;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment***;***[~~.~~]

(22)[~~(13)~~] ***Maintain***[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[~~ after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee***;***[~~.~~]

(23)[~~(14)~~] Monitor and ***transmit a*** report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee***;***[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state ***postsecondary educational*** institution[~~ of higher education~~] a comprehensive orientation program ***for new members of the council and the***[~~to be carried out by the respective institution for newly appointed~~] governing ***boards***[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning ***the roles of the council, the state strategic postsecondary education agenda and the implementation plan, and*** the respective institution's mission, budget, plans, policies, strengths, and weaknesses***;***[~~.~~]

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the

Commonwealth to the Governor and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and does promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit course work in the state-supported postsecondary education system. The policy shall permit a regular full time employee of a community college, with prior approval from the community college, to take a maximum of six (6) credit hours each term at any state-supported postsecondary institution with tuition being waved by that institution; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 71. KRS 164.0205 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall promote, support, and assist in the program created in KRS 158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 72. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning , ***the chancellor of the community college system, and the president of the Kentucky Technical College System*** shall serve on an advisory conference for the Council on ***Postsecondary***[~~Higher~~] Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on ***Postsecondary***[~~Higher~~] Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on ***Postsecondary***[~~Higher~~] Education will meet with the Advisory Conference of Presidents.

Section 73. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***[~~Higher~~] Education shall pay to the college not more than two hundred dollars ($200) per school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 74. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 75. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 76. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 77. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees***,*** and qualifications for admission to and reports from their respective institutions.

Section 78. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 79. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 80. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

  (a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

  (b) "Institution" means public universities, their subdivisions, ***community colleges,*** and the[~~ University of~~] Kentucky ***Technical***[~~Community~~] College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this Act***[~~standards~~]. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***[~~through a collaborative effort involving~~] the ***postsecondary educational***[~~higher education~~] institutions and the Council on ***Postsecondary***[~~Higher~~] Education.

(3) The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:

(a) Educational quality and educational outcomes;

(b) Student progress in the postsecondary system;

(c) Research and service activities;

(d) Use of resources;

(e) Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and

(f) Other indicators as deemed appropriate by the Council on Postsecondary Education.

(4) The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions[~~The accountability process shall be implemented in phases as follows:~~

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry-level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program~~].

(5) [~~(b) Beginning December 1, 1993,~~]The Council on ***Postsecondary***[~~Higher~~] Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 81. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions[~~ of higher education~~] in the state;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution.

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 82. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) (a) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) ***A***[~~No~~] member of the administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) A member of the board shall not serve more than two (2) consecutive terms.

Section 83. KRS 164.150 is amended to read as follows:

A[~~No~~] member of a governing board of a public institution of ***postsecondary***[~~higher~~] education shall ***not*** be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 84. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 129 of this Act and KRS 45.750(1)(f)*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 85. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher learning~~] in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***[~~Higher~~] Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky.

Section 86. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions[~~ of higher learning~~] is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 87. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution[~~ of higher education~~] is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of ***the***[~~such~~] institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty***,*** and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 88. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~ of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials***,*** or funds by way of gift, grant***,*** or loan for the purpose of higher education***,*** including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials***,*** and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 89. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~ of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 90. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~] Education may have a faculty member as a voting member of its board of trustees or regents.

Section 91. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees***,*** and programs beyond the masters-degree level to meet the requirements for teachers, school leaders***,*** and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the University of Kentucky Community College System, as provided by this chapter.

Section 92. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Technical College System***[~~(or College)~~].

Section 93. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Technical College System shall consist of eight (8) members appointed by the Governor and three (3) members as described in subsections (6)(b), (7)(b), and (8)(b) of this section. No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~ a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

A member of a board of regents shall not be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for ***the*** original election.

(b) The faculty member of the Kentucky Technical College System shall serve a three (3) year term and until his successor is named. The faculty representative shall be elected by means of a process established by the board. The faculty member may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Technical College System shall be any full-time staff member excluding a president, vice president, academic dean, academic department chair, or other administrator. The nonteaching personnel member shall represent all nonteaching employees including, but not limited to, support and clerical personnel.. The nonteaching personnel member shall serve a three (3) year term and until his successor is named. The nonteaching personnel member shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve

more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) One (1) full-time student member shall be elected to the board of regents for the Kentucky Technical College System. The student member shall be elected by means of a process established by the board. The student member shall serve a one (1) year term beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Technical College System shall be appointed by July 31, 1997.

Section 94. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the ***appropriate institution***[~~university or college~~].

Section 95. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities, and ***of the Kentucky Technical College System, a***[~~state colleges, no~~] person who is a member of either house of the Kentucky General Assembly shall ***not*** serve as a member of the board of trustees or board of regents of any state-supported ***institution***[~~college or university~~].

Section 96. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the ***institution***[~~university or college~~] or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 97. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and ***the Kentucky Technical College System***[~~colleges~~] is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a)[~~(1)~~] Receive grants of money and expend the same for the use and benefit of the university or college;

(b)[~~(2)~~] Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;

(c)[~~(3)~~]Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;

(d)[~~(4)~~] Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and

(e)[~~(5)~~]Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system;

(b) Adopt a consolidated budget request upon the recommendation of the president of the system for submission to the Council on Postsecondary Education for approval;

(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and

(d) Assure that the budget planning and implementation processes are consistent with the adopted long-term and biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.

Section 98. KRS 164.351 is amended to read as follows:

(1) State colleges and universities ***and the Kentucky Technical College System*** shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state ***technical institution, community*** college***,*** or university shall inform students of the name and telephone number of a ***technical institution, community college,*** college***,*** or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 99. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state***-***supported institution of ***postsecondary education***~~[higher learning]~~ provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 100. KRS 164.360 is amended to read as follows:

(1) ***(a)*** Each board of regents ***for the universities*** may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) ***A***~~[No]~~ person shall ***not*** be employed for a longer period than four (4) years. ***A***~~[No]~~ person shall ***not*** be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or ***the Kentucky Technical College System***~~[college]~~, and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 101. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries***,*** and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University ***and the Kentucky Technical College System***, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.

Section 102. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Technical College System*** shall establish[~~ such~~] incidental fees and nonresident tuition fees [~~as will be~~] sufficient for the purpose of paying the incidental expenses of the university or college and [~~as are~~] consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. [~~No ~~]Money derived from nonresident tuition or other fees paid by students shall ***not*** be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 103. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 129 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase***,*** and hold property ***under Section 129 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 129 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 104. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount***,*** and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 105. KRS 164.4781 is amended to read as follows:

[~~By the beginning of the 1986-87 school year, ~~]There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***[~~Higher~~] Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.[~~ By the beginning of the 1987-88 school year,~~] The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 106. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***[~~Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races~~].

Section 107. KRS 164.600 is amended to read as follows:

(1) There shall be a[~~ local advisory~~] board ***of directors*** for each community college, except as provided in KRS 165.160. Each[~~ local advisory~~] board ***of directors*** shall***:***

(a) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

(b) Approve budget requests for recommendation to the president;

(c) Review and approve an annual operating budget and submit it to the board of trustees for approval as to the

compliance with its guidelines; and

(d) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents; and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education[~~serve in an advisory capacity to the board and the head of the community college on the operation of the community college~~].

(2) The president of each community college shall have full authority and discretion regarding the use and management of the approved budget.

(3)[~~(2)~~] Each[~~ local advisory~~] board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)[~~ local advisory~~] board members shall be one (1) member of the teaching faculty and one (1) member of the student body.[~~ After July 13, 1990,~~] An appointed member's term ***shall be***[~~is~~] six (6) years[~~; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years~~].

(4)[~~(3)~~] The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the[~~ local advisory~~] boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5)[~~(4)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6)[~~(5)~~] ***The***[~~Local advisory board~~] members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

Section 108. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a

promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Technical System***~~[State Board for Adult and Technical Education]~~ and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 109. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

  (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

  (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 110. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 111. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent[~~, nonprofit~~] college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 112. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

(b) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 113. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate degree programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 114. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

(a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act as a condition of their service.

(b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(c) An appointed member shall not serve more than two (2) consecutive terms.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) ***A***[~~No~~] member of the teaching or administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 115. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***[~~such~~] removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***[~~such~~] other officers as it deems wise, including the annual election of a ***six***

(6)[~~five (5)~~] member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***[~~such~~] rules[~~ as~~] the board shall establish under its authority to make [~~such~~]bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of[~~ such~~] reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 116. KRS 164.915 is amended to read as follows:

The[~~By July 1, 1991, the~~] Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***[~~Higher~~] Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 117. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on ***Postsecondary***[~~Higher~~] Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 118. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***[~~Higher~~] Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***[~~Higher~~] Education using the following criteria:

(a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

(b) The scope and volume of patient care;

(c) The amount of available physical facilities;

(d) The current number and types of residency positions offered at each university;

(e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

(f) The extent of involvement in education in primary care in ambulatory care settings; and

(g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***~~[Higher]~~ Education.

Section 119. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***~~[Higher]~~ Education shall coordinate the activities of the participating institutions, as described in KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 120. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***~~[Higher]~~ Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 121. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***~~[herein]~~ shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers***,*** or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 122. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

(a) Irregularity and impairment in communication;

(b) Engagement in repetitive activity and stereotyped movement;

(c) Resistance to environmental change or change in daily routine; and

(d) Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 123. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky is authorized to operate a state autism training center, including:

- (a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;
- (b) The construction of necessary buildings;
- (c) The expansion, remodeling, altering, or equipping of necessary buildings; and
- (d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 124. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and

necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 125. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions[~~of higher education~~] in Kentucky recognized in KRS 164.100, 164.290, ***Section 17 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 126. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***[~~public~~] institutions[~~of higher education~~] electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

  (a) The treasurer of the ***institution***[~~university~~] shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

  (b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 127. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***[~~university~~] making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

  (a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

  (b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

(c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

(d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

(e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);

2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and

3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***[~~Higher~~] Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Section 128. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***[~~university~~] making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, and members of the governing board.

Section 129. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

(a) Contractual services where no competition exists[~~, such as telephone service, electrical energy, and other public utility services~~];

(b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

(c) Instructional materials available from only one (1) source;

(d) Where rates are fixed by law or ordinance;

(e) Library books;

(f) Commercial items that are purchased for resale;

(g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

(h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

(i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or ***lessor***~~[leasor]~~ approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 130. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***[~~Higher~~] Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 131. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Technical College System***[~~;but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council~~];

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 132. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***[~~Higher~~] Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 133. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 134. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***~~[Higher]~~ Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 135. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***president of the Kentucky Technical College System***~~[state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education]~~ shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 136. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on ***Postsecondary***~~[Higher]~~ Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 137. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.

164.575 Definition for KRS 164.575 to 164.600.

164.582 Definition for KRS 164.583.

186.1865 Special Kentucky Tech license plates.

Section 138. Whereas it is critical that an orderly transfer be made to establish the Kentucky Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for the Department for Technical Education, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, and other funds designated for these purposes, and transfer of the personnel and funds to the new system shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Technical College System is employed by the board of regents for the Kentucky Technical College System.

Section 139. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 140. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Announcements

The following meetings were announced:

Appropriations and Revenue, May 15.

Minority Caucus, Room 316, Capitol, upon adjournment.

Adjournment

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that the House adjourn until 10:00 a.m., May 16, 1997.

The motion that the House adjourn until 10:00 a.m., May 16, 1997 was adopted by voice vote.

FRIDAY, MAY 16, 1997

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jay Ayers, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Riggs.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 15, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 11, by Representatives Bratcher, L. Clark, Lile, Jordan, Wayne: A RESOLUTION urging a moratorium on all development in Jefferson County's flood plain.

HR 12, by Representative Napier: A RESOLUTION regarding the display of the Ten Commandments.

HR 13, by Representative J. Arnold: A RESOLUTION honoring Glenna Hawes Davis upon the occasion of her One Hundredth Birthday.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Education: **HB 3**

Calendar

HJR 6 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Mason moved that the rules be suspended to allow floor privileges to former Representative Louie Mack. Agreed.

Representative Marcotte moved that the rules be suspended to act upon a Legislative Citation. Agreed. Representative Marcotte moved the adoption of the following **Legislative Citation No. 14**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Ronald L. Kenner, Sr. The House of Representatives joins with Representative Charlie Walton and Representative Paul Marcotte in expressing its deepest sympathy to all who share in the loss on the passing of this outstanding Kentucky citizen who devotedly served the citizens of Boone County as their Sheriff. Ronald Kenner served with honor and pride, developing a well trained professional staff. His contributions to the development of the Sheriff's Special Response Team and the Honor Guard were particularly dear to this fine man's heart and serve as a tribute to the high regard he had for the office and the community for which he served. His memory will continue to be an inspiration to all whose lives were touched by his presence and will continue to serve as a beacon for others to follow. **Legislative Citation No. 14** was adopted without objection.

Representative Cox moved the adoption of the following **Legislative Citation No. 13**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Lou Cunningham longtime coach of men's basketball at Campbellsville University. The House of Representatives joins Representative Ricky Cox in expressing deepest sympathy to The Cunningham Family and to all those friends and colleagues who share in the great loss on the passing of this fine Kentuckian who helped lead, guide and instruct young people who are now making a difference in the communities and schools of this great Commonwealth. Lou Cunningham led Campbellsville to the NAIA twice during his twenty-five years as coach. He lived a full and wonderful life that will serve as an inspiration for others and will be most sadly missed by his devoted wife, Barbara, his beloved sons, Dave and Phil, and all whose lives were touched by this fine man. **Legislative Citation No. 13** was adopted without objection.

Representative J. Arnold moved the adoption of the following **HR 13**:

HR 13, A RESOLUTION honoring Glenna Hawes Davis upon the occasion of her One Hundredth Birthday.

WHEREAS, Glenna Hawes Davis was born on May 14, 1897, a native of McHenry, Ohio County, Kentucky, and a longtime resident of Sturgis, Kentucky; and

WHEREAS, Glenna Hawes Davis is the devoted mother of two daughters, Rebecca Davis Kearney and Amy Davis Truitt and two sons, Roy Davis, Jr., deceased, and Robert Hawes Davis; and she is the loving grandmother of six grandchildren, twelve great-grandchildren, and one great-great grandchild; and

WHEREAS, Glenna Hawes Davis, throughout her life, contributed countless hours toward charitable causes and held a special interest in the Cumberland Presbyterian Church, where she has been a devout member for seventy-five years and where she taught Sunday School for many years; she was the past district president of the local missionary auxiliary, and was the recipient of the Golden Patron Award from the Princeton Presbytery, where she was active for over fifty years in missionary work; and she was the recipient of the 1956 Outstanding Citizen of the Year Award given by the Sturgis Kiwanis Club; and

WHEREAS, Glenna Hawes Davis has been a resident of the Sturgis Rest Home for six years, and to celebrate her one hundredth birthday on May 14, 1997, the managers of Sturgis Rest Home arranged to take her on a special hayride to the Ohio River;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud to celebrate the life of Glenna Hawes Davis, who has brought light and inspiration to all the lives she has touched throughout her one hundred years.

Section 2. This august body hails and commends Glenna Hawes Davis for her extraordinary vision and leadership and applauds her for her strong character and high moral principles.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Glenna Hawes Davis upon the occasion of her one hundredth birthday.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Rebecca Davis Kearney, P.O. Box 194, Sturgis, Kentucky 42459, for presentation to Glenna Hawes Davis.

There being no objection **HR 13** was adopted.

Representative Nesler moved the adoption of the following **Legislative Citation No. 12**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Gertie Buckingham Nesler on the momentous circumstance and special occasion of her one hundredth birth day, for inasmuch as birth days are special affairs when family and friends celebrate and cherish the generosity and integrity within the heart of this remarkable and sequential recipient; and, whereas, birth days are unique, notable events upon which the virtue and morality of that person should be honored; therefore, the Kentucky House of Representatives joins Representative Fred Nesler in the commemoration of his grandmother's exceptional life who forever will be his valued friend and companion. Gertie Buckingham Nesler, this prestigious body salutes your tenacity and vigor and prays you may be forever young at heart. **Legislative Citation No. 12** was adopted without objection.

Representative Napier moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Napier moved the adoption of the following **HR 12**:

HR 12, A RESOLUTION regarding the display of the Ten Commandments.

WHEREAS, the Ten Commandments have had a significant impact on the development of the fundamental legal principles of Western Civilization; and

WHEREAS, the Ten Commandments set forth a code of moral conduct, observance of which is universally acknowledged to promote respect for our system of laws and the good of society;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Ten Commandments are a declaration of fundamental principles that are the cornerstones of a fair and just society.

Section 2. The public display, including all public buildings and schools, of the Ten Commandments should be permitted.

There being no objection **HR 12** was adopted.

Roll call to show co-sponsors of **HR 12** is as follows: R. Adams, Alexander, Allen, A. Arnold, J. Arnold, Baugh, Bowling, Bratcher, De. Butler, Dw. Butler, Cave, P. Clark, Colter, Cox, Crall, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Haydon, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Nunn, Palumbo, Polston, Pope, Ratliff, Richards, Riner, Scott, Siler, Sims, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Wilkey, Yonts, Zimmerman.

Representative Stumbo moved that no further business be conducted on the floor this day except for the filing of floor amendments. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House does adjourn on this day, it does so until 2:00 p.m., on Monday, May 19, 1997.

Recess

Representative Stumbo moved to suspend the rules for the House to recess until 1:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 47 to the Committee Substitute No. 2 to **HB 1**, by Representative Rasche:

On page 192, line 16, after "Section 150.", by adding the following:

"Notwithstanding any provision of this Act, the transfer of the Paducah Community College to the Kentucky Community and Technical College System shall not take effect until July 1 following the graduation of the first student from the College of Engineering Extended Campus Program at the Regional Center in Paducah and the program's accreditation by the Accrediting Board of Engineering and Technology (ABET).

Section 151."

On page 192, line 20, after "Section", by changing "151" to "152".

Floor Amendment No. 48 to the Committee Substitute No. 2 to **HB 1**, by Representative Hogancamp:

On page 2, line 25, after "***language arts***", by adding "***including grammar and spelling***".

Floor Amendment No. 49 to the Committee Substitute No. 2 to **HB 1**, by Representative Hogancamp:

On page 2, line 25, after "***studies***", by adding "***including American history***" and after "***language arts***", by adding "***including grammar and spelling***"; and

On page 2, line 26, after "***society***", by adding "***and to sustain our representative form of government***".

Floor Amendment No. 50 to the Committee Substitute No. 2 to **HB 1**, by Representative Hogancamp:

On page 2, line 26, after "***society***", by adding "***and to sustain our representative form of government***".

Floor Amendment No. 51 to the Committee Substitute No. 2 to **HB 1**, by Representative Hogancamp:

On page 2, line 25, after "***studies***", by adding "***including American history***".

Recess

Representative Callahan moved that the House recess until 4:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 52 to the Committee Substitute No. 2 to **HB 1**, by Representative Anderson:

On page 156, line 18 after *(7)* by inserting the following: "*A community college board of directors may vote to stay as a part of the University of Kentucky Community College System or become an independent community college within the Kentucky Community and Technical College System. The decision reached by a two- thirds (2/3) majority vote shall be binding on all parties for ten (10) years.*

(8)".

Floor Amendment No. 53 to the Committee Substitute No. 2 to **HB 1**, by Representative Anderson:

On page 1, after the enacting clause, by deleting the remainder of the bill in its entirety and inserting in lieu thereof the following:

"Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development of a well-educated and highly-trained workforce; and

(b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

(a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

(b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

(c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

(d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

(e) A comprehensive community and technical college system with a mission that ensures, in conjunction with other postsecondary institutions, reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

(f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Technical College System;

(4) "Board of regents" means the governing board of each regional university and the Kentucky Technical College System;

(5) "Council" means the Council on Postsecondary Education created in Section 69 of this Act;

(6) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(7) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Technical College System;

(8) "Kentucky Technical College System" means:

(a) The postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

(b) Institutions created by the board of regents for the Kentucky Technical College System and approved by the General Assembly;

(9) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(10) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(11) "Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(12) "Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, the University of Kentucky Community College System, and the Kentucky Technical College System;

(13) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(14) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(15) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(16) "Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and

(17) "Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

There shall be a search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. The committee shall be composed of the chair of the Council on Postsecondary Education and seven (7) members of the council designated by the chair; the governor and seven (7) persons designated by the governor; and the members of the Legislative Research Commission. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group. There shall be unanimous agreement among the groups.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her

actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 70 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(11) Once appointed, the president shall serve at the pleasure of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 80 of this Act, and the degree to which the unnecessary duplication of programs has been reduced among postsecondary institutions and low performance programs have been eliminated.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

(7) (a) No later than six (6) months following the appointment of the first president of the Council on Postsecondary Education, the council shall adopt short-term strategies, objectives, and benchmarks for cooperation and collaboration between the University of Kentucky Community Colleges and the Kentucky Technical College System and for the reduction of unnecessary duplication to carry out the goals established in Section 2 of this Act. The strategies shall include, but not be limited to, the responsiveness to regional needs, the quality of programs, student ability to easily transfer programs, the number of articulation agreements, and the degree to which the two (2) systems promote achievement of the strategic agenda.

(b) The chancellor of the Community College System and the president of the Kentucky Technical College System shall meet at least quarterly to review progress toward meeting the short-term strategies developed pursuant to paragraph (a) of this subsection. Following each meeting, they shall submit a progress report to the president of the Council on Postsecondary Education.

(c) The Council on Postsecondary Education shall review the progress made in meeting the short-term objectives and benchmarks over a five (5) year period to determine the advisability of changing the governance of the University of Kentucky Community College System and the Kentucky Technical College System as a long-term strategy to achieve the goals.

(8) In developing the strategic agenda for postsecondary education, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda for postsecondary education, the council shall distribute a copy to each local school district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, community college, Kentucky Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among

libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities, community colleges, and institutions in the Kentucky Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other

representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Technical College System is established and shall provide services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state. It shall serve as the entry point for employers and agencies seeking customized training to the extent possible.

(2) The Kentucky Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever-changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) The board of regents for the Kentucky Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(4) The president through the faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

(5) The president shall seek to offer an accredited associate degree in applied science by the year 2010.

(6) The board of regents shall award a degree to any student of the Kentucky Tech System who prior to the effective date of this Act earned a diploma or certificate from a program meeting the standard for a degree by making application to the board within five (5) years of the establishment of the degree program.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Technical College System shall be appointed from candidates selected in a search by a search committee.

(2) The president shall possess the necessary skills to guide and direct the institutional mission of the system.

(3) The president shall be responsible for:

(a) Administering the programs and services for the system;

(b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff;

(c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;

(d) Supervising the development of policies within the overall framework of the system;

(e) Advocating the needs of the students, institutions, and staff under the president's jurisdiction;

(f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the universities, community colleges, and the technical institutions;

(g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;

(h) Preparing accountability reports and other reports as needed;

(i) Preparing internal budget plans; and

(j) Other duties as identified by the Council on Postsecondary Education.

(4) The president shall serve at the pleasure of the board.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the Kentucky Technical College System.

(a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 64 of this Act or the Kentucky Employees Retirement System under Section 34 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs; and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development. Except that the board of regents for the Kentucky Technical College System shall establish a personnel dispute resolution system that results, in the final stage, in an independent third party appeal for all employees of the Kentucky Technical College System. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel

policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Technical College System shall be governed by the rules and regulations established by the board.

(3) A regular full time employee may, with prior administration approval, take a maximum of six (6) credit hours each term at any state supported postsecondary institution with tuition being waved by that institution.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policy makers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities, community colleges, and the Kentucky Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 24. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999, and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:

(a) A baseline analysis and projections of economic conditions and outlook;

(b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and

(c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 25. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Office of Development.

(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.

(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
    (a) Department of Property Taxation.
    (b) Department of Compliance and Taxpayer Assistance.
    (c) Department of Administrative Services.
    (d) Office of General Counsel.
11. Tourism Cabinet:
    (a) Department of Travel Development.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of Film Promotion.
    (h) Office of General Counsel.
12. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workforce Analysis and Research.
    (o) Office for Administrative Services.
    (p) Office for Policy, Budget, and Personnel.
    (q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on ***Postsecondary***~~[Higher]~~ Education.
    (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 26. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***~~[Higher]~~ Education~~[(The state universities and colleges shall report through the Council on Higher Education)]~~;
(2) Department of Military Affairs;
(3) Department of Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs; and

(7) Coal Marketing and Export Council.

Section 27. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

  (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

  (b) Declaratory rulings; or

  (c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

  (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

  (e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***[~~of higher education~~] pertaining to students attending or applicants to ***the***[~~such~~] institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

  (a) Commercial enterprises;

  (b) Retail businesses;

  (c) Service businesses;

  (d) Industry;

  (e) Consumers of a product or service; or

  (f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 28. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;[~~ and~~]

(z) Employees of the Kentucky Peace Corps***; and***

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided ***in KRS 18A.005 to 18A.200***[~~herein~~].

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted towards years of experience for calculating benefits and compensation.

Section 29. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 30. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 31. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,[~~ and~~] Eastern Kentucky University***, and the Kentucky Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

- (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or
- (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 32. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;[~~ and~~]
9. Eastern Kentucky University***; and***
10. ***Kentucky Technical College System***.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 33. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state[~~ colleges or~~] universities***, the Kentucky Technical College System,*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state[~~ college or of the~~] university ***or the Kentucky Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 34. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***[~~Higher~~] Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);[~~ and~~]

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as members; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Technical College System.

Section 35. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 36. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The chief state school officer or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) The executive director of the Public Service Commission or his designee;

(k) One (1) representative of local governments to be appointed by the Governor; and

(l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 37. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures

that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 38. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,[~~ and~~] Murray State University***, and the Kentucky Technical College System***, and members of the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall not be removed except for cause.

Section 39. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Technical College System***[~~Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet~~];

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The ***president of the Kentucky Technical College System***[~~commissioner of the Department for Adult and Technical Education~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and

necessary expenses incurred in the performance of their functions[~~-hereunder~~].

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 40. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered***:***[~~,~~]

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on***:***[~~,~~]

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***[~~Higher~~] Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on ***Postsecondary***[~~Higher~~] Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 41. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided

or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***[~~herein~~].

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of[~~ nondegree programs in post-secondary and vocational technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools,~~] state-operated ***secondary*** area vocational education ***and technology*** centers[~~, state technical institutes, and technology centers~~]. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***[~~Kentucky Board of Education. Program standards and qualification of staff in the post-secondary institutions shall be governed solely by the State Board for Adult and Technical Education~~]. ***In addition to direct appropriations, funds appropriated to support*** the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching ***specialties***[~~specialities~~]. [~~Such~~]Agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***[~~45~~]. All[~~ such~~] agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 42. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.[~~ The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.~~]

(2) There is hereby created a Division of ***Administrative***[~~Federal Programs and Support~~] Services within the Department for Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***[~~the Kentucky Tech System~~] within the Department for Technical Education. The office shall be headed by an office head appointed by the

commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***[~~vocational technical schools and~~] area ***vocational education and technology*** centers[~~ known as the Kentucky Tech System~~]. The office shall be composed of the Division of School ***Management***[~~Operations~~], the Division of ***Curriculum Services***[~~Program Management~~], an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 43. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;
(b) Applications;
(c) Certification;
(d) Classification and compensation plans;
(e) Incentive programs;
(f) Selection of employees;
(g) Types of appointments;
(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;
(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;
(j) Extent and duration of the ***state-operated area vocational education and technology centers***[~~Kentucky Tech System~~] school term, use of school days, and extended employment;
(k) Employee evaluations;
(l) Programs to improve the work effectiveness of employees including staff development;
(m) Demotion;
(n) Dismissal;
(o) Layoffs;
(p) Suspensions and other disciplinary measures;
(q) Probationary periods, limited employment status, and continuing employment status;
(r) Promotion;
(s) Transfer;
(t) Appeals; and
(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) ***An***[~~No~~] administrative body other than the State Board for Adult and Technical Education shall ***not*** promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. ~~[Such]~~Designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter

151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted toward years of experience for calculating benefits and compensation.

Section 44. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***[~~schools~~] shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;

(b) Job knowledge and skills;

(c) Instructional management;

(d) Employee conduct; and

(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Employee conduct; and

(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final

ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 45. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Technical College System***[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.~~]

Section 46. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 47. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Technical College System and other postsecondary institutions. A*** [~~when feasible. No~~] public institution of higher education[~~, including the community colleges,~~] shall ***not*** offer any[~~ new~~] program of a vocational-technical-occupational nature below the associate degree level without the consent of the[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System and the approval of the Council on Postsecondary*** Education. The[~~ State~~] board ***of regents*** for ***the Kentucky*** [~~Adult and~~] Technical ***College System***[~~Education~~], with approval of the Council on ***Postsecondary***[~~Higher~~] Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 48. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***[~~vocational technical schools and~~] area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for[~~ postsecondary pupils and~~] adults who are enrolled ***in secondary programs*** in the state***-*** operated[~~ vocational technical schools and~~] area vocational education ***and technology*** centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Technical College System***.[~~ The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.~~]

Section 49. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***[~~vocational technical schools~~] and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***[~~state vocational technical~~] schools ***under its jurisdiction***[~~and area vocational education centers~~]. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary[~~ and postsecondary~~] students[~~ and adults~~], the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 50. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to***,*** the following:

   (a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

   (b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

   (c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

   (d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

   (e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

   (f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The ***president of the Kentucky Technical College System***[~~ commissioner of the Department for Technical Education~~];

(g) The commissioner of the Department for Adult Education and Literacy;

(h) The commissioner of the Department for the Blind;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 51. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***[~~chairman~~] of the Council on ***Postsecondary***[~~Higher~~] Education, the secretary of the Cabinet for Workforce Development and the ***president***[~~chancellor~~] of the[~~ University of~~] Kentucky [~~Community ~~]***Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 52. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B,[~~ on or before January 1, 1995,~~] the University of Kentucky, Eastern Kentucky University, Morehead State University, ***the University of Kentucky Community College System, and*** the ***Kentucky***[~~ Community~~]***Technical*** College System[~~ of the University of Kentucky, and the Kentucky Tech System~~] in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) ***A***[~~No~~] state agency provider of workforce training shall ***not*** reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 53. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term[~~, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at large members shall serve a term which shall expire on April 14, 1992~~]. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 54. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education,

Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

(a) One (1) member of the Kentucky Board of Education;

(b) One (1) member of the House of Representatives;

(c) One (1) member of the Senate; and

(d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall ***not*** receive[~~ no~~] compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 55. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 56. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

(b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Cabinet for Workforce Development;~~[and]~~

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

(h) The president of the Kentucky Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 57. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***~~[Higher]~~ Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***~~[Higher]~~ Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 58. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***~~[Higher]~~ Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 59. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***~~[Higher]~~ Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 60. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be

conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***~~[Higher]~~ Education for educational institutions under their jurisdiction. ***The***~~[Such]~~ rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing; and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 61. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***~~[Higher]~~ Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 62. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 63. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education[~~ no later than December 1, 1993,~~] that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 64. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community[~~ or junior~~] colleges established under the control of these universities***, and the Kentucky Technical College System and any technical institutions established under its control***;

(c) ***State-operated secondary***[~~State and~~] area vocational ***education or area technology centers***[~~schools~~], Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

(l) The Department of Vocational Rehabilitation;

(m) The Kentucky Educational Collaborative for State Agency Children;

(n) The Governor's Scholars Program; and

(o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 65. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions[~~ of higher education~~] who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***[~~pursuant to~~] KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions[~~ of higher education~~];

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions[~~ of higher education~~]; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 66. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions[~~ of higher education~~] identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution[~~ of higher education~~] which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 67. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution[~~ of higher education~~], the Council on ***Postsecondary***[~~Higher~~] Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***[~~Higher~~] Education Student Advisory Committee;
3. Associations representing faculty from universities***,*** [~~and~~] community colleges***, and technical colleges***;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321,[~~ and~~] 164.821***,*** and [~~to the Council on Higher Education pursuant to KRS~~]164.011[~~, except the student member~~]. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***[~~Higher~~] Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 68. KRS 164.0053 is amended to read as follows:

(1) ***An***[~~No~~] appointing authority shall ***not*** appoint himself or his spouse, or the Governor or his spouse***,*** to a[~~ university~~]

governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***[~~Higher~~] Education created pursuant to KRS 164.011.

(2) ***A***[~~No~~] full-time employee of a public institution of ***postsecondary***[~~higher~~] education shall ***not*** be eligible to serve on the Council on ***Postsecondary***[~~Higher~~] Education or on the governing board of another institution of ***postsecondary***[~~higher~~] education, except the community college faculty representative ***and the technical college faculty and nonteaching personnel*** serving on the ***board of regents for the Kentucky Technical College System and the*** University of Kentucky Board of Trustees.

(3) ***A postsecondary institution shall not award an honorary degree to a sitting governor.***

(4) All[~~ university~~] governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***[~~Higher~~] Education shall ***not*** have ***a***[~~no~~] conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 69. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***[~~shall be~~] a Council on ***Postsecondary***[~~Higher~~] Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***fifteen (15) voting***[~~the chief state school officer, and seventeen (17) lay~~] members appointed by the Governor***: thirteen (13) lay members, one (1) faculty member, and one (1) student member. There shall also be one (1) nonvoting member, the commissioner of education who shall serve ex officio. Lay members shall be appointed to the council with the consent of the Senate and the House of Representatives under KRS 11.160. Lay council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 67 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly***[~~: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member~~].

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 67 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation, assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect the minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve. One (1) member shall be a full-time faculty member employed at a state public institution of higher education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by a majority vote of the faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary institutions. One (1)*** [~~The student~~] member shall be enrolled as a full-time student at a state public institution of ***postsecondary***[~~higher~~] education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions***,*** [~~of higher education and~~] one (1) representative of the community college student body presidents elected from among themselves, ***and the student member on the board of regents for the Kentucky Technical College System*** shall elect by majority vote [~~of the nine (9) presidents~~] three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments***[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each lay member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

(a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one~~

~~(1) of which shall be the student member~~];

(b) ***Two (2) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];

(c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];

(d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];

(e) ***Two (2) appointments shall expire December 31, 2001***[~~Three (3) members shall serve five (5) year terms~~]; and

(f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) ***The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 70. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) Develop and implement the state strategic postsecondary education agenda. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 80 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities, community colleges, and the Kentucky Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Technical College System. The council has sole discretion to devise policies that provide for allocation of funds among the universities, community colleges, and the Kentucky Technical College System. These policies shall reflect a commitment to academic quality and community service;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11)[~~(5)~~] Review and approve all capital construction projects ***covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities, community colleges, and the Kentucky Technical College System;***

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the University of Kentucky Community College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~, or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature.***

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;

(b) Alignment with the priorities in the state strategic postsecondary education agenda;

(c) Elimination of duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions***that comply with the standards for teacher certification established by the Education Professional Standards Board pursuant to Section 62 of this Act;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment***;***[~~.~~]

(22)[~~(13)~~] ***Maintain***[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[~~ after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee***;***[~~.~~]

(23)[~~(14)~~] Monitor and ***transmit a*** report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee***;***[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state ***postsecondary educational*** institution[~~ of higher education~~] a comprehensive orientation program ***for new members of the council and the***[~~to be carried out by the respective institution for newly appointed~~] governing ***boards***[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning ***the roles of the council, the state strategic postsecondary education agenda and the implementation plan, and*** the respective institution's mission, budget, plans, policies, strengths, and weaknesses***;***[~~.~~]

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure

uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and does promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit course work in the state-supported postsecondary education system. The policy shall permit a regular full time employee of a community college, with prior approval from the community college, to take a maximum of six (6) credit hours each term at any state-supported postsecondary institution with tuition being waved by that institution; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 71. KRS 164.0205 is amended to read as follows:

The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky shall promote, support, and assist in the program created in KRS 158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 72. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning , ***the chancellor of the community college system, and the president of the Kentucky Technical College System*** shall serve on an advisory conference for the Council on ***Postsecondary***~~[Higher]~~ Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on ***Postsecondary***~~[Higher]~~ Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on ***Postsecondary***~~[Higher]~~ Education will meet with the Advisory Conference of Presidents.

Section 73. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***~~[Higher]~~ Education shall pay to the college not more than two hundred dollars ($200) per school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 74. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 75. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 76. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 77. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees***,*** and qualifications for admission to and reports from their respective institutions.

Section 78. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 79. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 80. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

  (a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

  (b) "Institution" means public universities, their subdivisions, ***community colleges,*** and the[~~ University of~~] Kentucky ***Technical***[~~Community~~] College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this Act***[~~standards~~]. It is further the intent of the General Assembly that the accountability process monitor performance at the

institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***[~~through a collaborative effort involving~~] the ***postsecondary educational***[~~higher education~~] institutions and the Council on ***Postsecondary***[~~Higher~~] Education.

(3) ***The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:***

(a) ***Educational quality and educational outcomes;***

(b) ***Student progress in the postsecondary system;***

(c) ***Research and service activities;***

(d) ***Use of resources;***

(e) ***Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and***

(f) ***Other indicators as deemed appropriate by the Council on Postsecondary Education.***

(4) ***The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions***[~~The accountability process shall be implemented in phases as follows:~~

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program~~].

(5) [~~(b) Beginning December 1, 1993,~~]The Council on ***Postsecondary***[~~Higher~~] Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 81. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions~~[of higher education]~~ in the state;

(c) Upon approval of the Council on ***Postsecondary***~~[Higher]~~ Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution.

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 82. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;
2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
3. Three (3) members shall serve three (3) year terms;
4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
5. Three (3) members shall serve five (5) year terms; and
6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) (a) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) ***A***~~[No]~~ member of the administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) A member of the board shall not serve more than two (2) consecutive terms.

Section 83. KRS 164.150 is amended to read as follows:

A~~[No]~~ member of a governing board of a public institution of ***postsecondary***~~[higher]~~ education shall ***not*** be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 84. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 129 of this Act and KRS 45.750(1)(f)*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 85. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all ***state***~~[public]~~ supported ***postsecondary educational*** institutions~~[of higher learning]~~ in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***~~[Higher]~~ Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the

student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky.

Section 86. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions[~~ of higher learning~~] is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 87. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution[~~ of higher education~~] is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of ***the***[~~such~~] institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty, and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 88. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~ of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials, or funds by way of gift, grant, or loan for the purpose of higher education, including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials, and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 89. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~ of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 90. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~] Education may have a faculty member as a voting member of its board of trustees or regents.

Section 91. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees, and programs beyond the masters-degree level to meet the requirements for teachers, school leaders, and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the University of Kentucky Community College System, as provided by this chapter.

Section 92. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Technical College System***[~~(or College)~~].

Section 93. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Technical College System shall consist of eight (8) members appointed by the Governor and three (3) members as described in subsections (6)(b), (7)(b), and (8)(b) of this section. No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~ a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

A member of a board of regents shall not be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for ***the*** original election.

(b) The faculty member of the Kentucky Technical College System shall serve a three (3) year term and until his successor is named. The faculty representative shall be elected by means of a process established by the board. The faculty member may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Technical College System shall be any full-time staff member excluding a president, vice president, academic dean, academic department chair, or other

administrator. The nonteaching personnel member shall represent all nonteaching employees including, but not limited to, support and clerical personnel. The nonteaching personnel member shall serve a three (3) year term and until his successor is named. The nonteaching personnel member shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) One (1) full-time student member shall be elected to the board of regents for the Kentucky Technical College System. The student member shall be elected by means of a process established by the board. The student member shall serve a one (1) year term beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Technical College System shall be appointed by July 31, 1997.

Section 94. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the ***appropriate institution***[~~university or college~~].

Section 95. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities***,*** and ***of the Kentucky Technical College System, a***[~~state colleges, no~~] person who is a member of either house of the Kentucky General Assembly shall ***not*** serve as a member of the board of trustees or board of regents of any state-supported ***institution***[~~college or university~~].

Section 96. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the ***institution***[~~university or college~~] or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 97. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and ***the Kentucky Technical College System***[~~colleges~~] is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges***,*** and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a)[~~(1)~~] Receive grants of money and expend the same for the use and benefit of the university or college;

(b)[~~(2)~~] Adopt bylaws, rules***,*** and regulations for the government of its members, officers, agents***,*** and employees, and enforce obedience to such rules;

(c)[~~(3)~~]Require such reports from the president, officers, faculty***,*** and employees as it deems necessary and proper from time to time;

(d)[~~(4)~~] Determine the number of divisions, departments, bureaus, offices***,*** and agencies needed for the successful conduct of the affairs of the university or college; and

(e)[~~(5)~~]Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system;

(b) Adopt a consolidated budget request upon the recommendation of the president of the system for submission to the Council on Postsecondary Education for approval;

(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and

(d) Assure that the budget planning and implementation processes are consistent with the adopted long-term and biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.

Section 98. KRS 164.351 is amended to read as follows:

(1) State colleges and universities ***and the Kentucky Technical College System*** shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state ***technical institution, community*** college***,*** or university shall inform students of the name and telephone number of a ***technical institution, community college,*** college***,*** or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 99. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state***-***supported institution of ***postsecondary education***[~~higher learning~~] provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 100. KRS 164.360 is amended to read as follows:

(1) ***(a)*** Each board of regents ***for the universities*** may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) ***A***[~~No~~] person shall ***not*** be employed for a longer period than four (4) years. ***A***[~~No~~] person shall ***not*** be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or ***the Kentucky Technical College System***[~~college~~], and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 101. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries***,*** and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University ***and the Kentucky Technical College System***, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern

employees hired from July 1, 1997, until the permanent rules are adopted.

Section 102. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Technical College System*** shall establish[~~ such~~] incidental fees and nonresident tuition fees [~~as will be~~] sufficient for the purpose of paying the incidental expenses of the university or college and [~~as are~~] consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. [~~No~~]Money derived from nonresident tuition or other fees paid by students shall ***not*** be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 103. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 129 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase***,*** and hold property ***under Section 129 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 129 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 104. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount***,*** and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 105. KRS 164.4781 is amended to read as follows:

[~~By the beginning of the 1986-87 school year,~~]There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***[~~Higher~~] Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.[~~By the beginning of the 1987-88 school year,~~] The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 106. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***[~~Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races~~].

Section 107. KRS 164.600 is amended to read as follows:

(1) There shall be a[~~ local advisory~~] board ***of directors*** for each community college, except as provided in KRS 165.160. Each[~~ local advisory~~] board ***of directors*** shall***:***

(a) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

(b) Approve budget requests for recommendation to the president;

(c) Review and approve an annual operating budget and submit it to the board of trustees for approval as to the compliance with its guidelines; and

(d) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents; and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education[~~serve in an advisory capacity to the board and the head of the community college on the operation of the community college~~].

(2) The president of each community college shall have full authority and discretion regarding the use and management of the approved budget.

(3)[~~(2)~~] Each[~~local advisory~~] board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)[~~local advisory~~] board members shall be one (1) member of the teaching faculty and one (1) member of the student body.[~~After July 13, 1990,~~] An appointed member's term ***shall be***[~~is~~] six (6) years[~~; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years~~].

(4)[~~(3)~~] The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the[~~local advisory~~] boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5)[~~(4)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6)[~~(5)~~] ***The***[~~Local advisory board~~] members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

Section 108. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Technical System***[~~State Board for Adult and Technical Education~~] and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 109. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 110. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 111. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent[~~ nonprofit~~] college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 112. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

(b) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 113. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate degree programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 114. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant

to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

(a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act as a condition of their service.

(b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(c) An appointed member shall not serve more than two (2) consecutive terms.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) ***A***[~~No~~] member of the teaching or administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 115. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***[~~such~~] removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***[~~such~~] other officers as it deems wise, including the annual election of a ***six (6)***[~~five (5)~~] member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***[~~such~~] rules[~~ as~~] the board shall establish under its authority to make [~~such~~]bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of~~[such]~~ reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 116. KRS 164.915 is amended to read as follows:

The~~[By July 1, 1991, the]~~ Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***~~[Higher]~~ Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 117. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville shall be determined by the Council on ***Postsecondary***~~[Higher]~~ Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 118. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***~~[Higher]~~ Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***~~[Higher]~~ Education using the following criteria:

(a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

(b) The scope and volume of patient care;

(c) The amount of available physical facilities;

(d) The current number and types of residency positions offered at each university;

(e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

(f) The extent of involvement in education in primary care in ambulatory care settings; and

(g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***[~~Higher~~] Education.

Section 119. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall coordinate the activities of the participating institutions, as described in KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 120. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***[~~Higher~~] Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 121. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education by regulation shall adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***[~~herein~~] shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers***,*** or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 122. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

(a) Irregularity and impairment in communication;

(b) Engagement in repetitive activity and stereotyped movement;

(c) Resistance to environmental change or change in daily routine; and

(d) Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 123. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky is authorized to operate a state autism training center, including:

(a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;

(b) The construction of necessary buildings;

(c) The expansion, remodeling, altering, or equipping of necessary buildings; and

(d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 124. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4) years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the

Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 125. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky recognized in KRS 164.100, 164.290, ***Section 17 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 126. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

  (a) The treasurer of the ***institution***[~~university~~] shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

  (b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 127. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***[~~university~~] making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

  (a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

  (b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

  (c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

  (d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

  (e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);
2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and
3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***~~[Higher]~~ Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Section 128. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***~~[university]~~ making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***~~[Executive Director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, and members of the governing board.

Section 129. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

(a) Contractual services where no competition exists~~[, such as telephone service, electrical energy, and other public utility services]~~;

(b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

(c) Instructional materials available from only one (1) source;

(d) Where rates are fixed by law or ordinance;

(e) Library books;

(f) Commercial items that are purchased for resale;

(g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

(h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

(i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or ***lessor***~~[leasor]~~ approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 130. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***~~[Higher]~~ Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 131. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Technical College System***[~~; but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council~~];

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 132. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***[~~Higher~~] Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 133. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 134. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***~~[Higher]~~ Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 135. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***president of the Kentucky Technical College System***~~[state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education]~~ shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 136. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky

Board of Education, the Council on ***Postsecondary***~~[Higher]~~ Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 137. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.

164.575 Definition for KRS 164.575 to 164.600.

164.582 Definition for KRS 164.583.

186.1865 Special Kentucky Tech license plates.

Section 138. Whereas it is critical that an orderly transfer be made to establish the Kentucky Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for the Department for Technical Education, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, and other funds designated for these purposes, and transfer of the personnel and funds to the new system shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Technical College System is employed by the board of regents for the Kentucky Technical College System.

Section 139. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 140. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 54 to the Committee Substitute No. 2 to **HB 1**, by Representative Mason:

On page 17, line 22, after "***(2)***", by adding "***(a)***"; and

On page 17, after line 27, by adding the following:

"***(b) A minimum of twenty-five percent (25%) of the fund appropriation shall be allotted for the purpose of assisting individuals whose family income is one hundred percent (100%) of the federal income poverty guidelines and individuals with disabilities who do not qualify for vocational rehabilitation services.***"

Adjournment

Representative L. Clark moved that the House adjourn until 2:00 p.m., Monday, May 19, 1997.

The motion that the House adjourn until 2:00 p.m., Monday, May 19, 1997 was adopted by voice vote.

MONDAY, MAY 19, 1997

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rev. David Hilton, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives J. Adams, Bowling, Cox, Crall, Curd, Deskins, Geveden, Hatcher, Heleringer, Maricle, Riggs, and Treesh.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 16, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative G. Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 17**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Joan Johnston, Coach for being named the 1997 National Girls' Golf Coach of the Year in Kansas City, Missouri, and upon her being selected to receive the Distinguished Service Award for Girls' Golf. This venerable body applauds Joan Johnston's outstanding leadership and instruction of the Franklin County High School Girls' Golf Team, the Lady Flyers, who repeated their state golf championship in the 1996-1997 school year. Representative Gippy Graham joins with the House of Representatives in commending Coach Joan Johnston for her tremendous stewardship of these young athletes and wishes her and the Lady Flyers every success in the future. **Legislative Citation No. 17** was adopted without objection.

Introduction of Bills and Resolutions

HR 14, by Representative Burch: A RESOLUTION urging the United States Department of Defense to retrieve the bodies of four Marines lost in a helicopter crash on May 11, 1997.

Motions, Petitions and Communications

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HR 12**. Agreed.

Representative Burch moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Burch moved the adoption of the following **HR 14**:

HR 14, A RESOLUTION urging the United States Department of Defense to retrieve the bodies of four Marines lost in a helicopter crash on May 11, 1997.

WHEREAS, it is with heavy hearts and deep sadness that we reflect upon the Marine helicopter accident along the Southern California coast on Sunday, May 11, 1997, that took the lives of four brave and patriotic members of the United States Marine Corps; and

WHEREAS, this tragic event has brought grief and suffering to the families and friends of these United States Marine Corps servicemen;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives laments the grief and suffering inflicted upon the families of the four United States Marine Corps servicemen who lost their lives in this tragic event.

Section 2. The House of Representatives of the Commonwealth of Kentucky urges the United States Department of

Defense, in the aftermath of this tragedy, to use every means reasonable to retrieve the bodies of our brave servicemen who were obedient to their duty and selfless in their service to our nation, and that these four young men deserve the same consideration as those lost in civilian disasters.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to the Honorable Bill Clinton, President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable William Cohen, Secretary, Department of Defense, 1000 Defense Pentagon, Washington, D.C. 20520; the Honorable Wendell H. Ford, 173A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Mitch McConnell, 361A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Ed Whitfield, 236 Cannon House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 412 Cannon House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 1004 Longworth Office Building, Washington, D.C 20515; the Honorable Jim Bunning, 2437 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2468 Rayburn House Office Building, Washington, D.C. 20515; and the Honorable Scotty Baesler, 113 Cannon House Office Building, Washington, D.C. 20515.

There being no objection **HR 14** was adopted.

Roll call to show co-sponsors of **HR 14** is as follows: R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Crimm, Damron, DeWeese, Gee, D. Graham, G. Graham, Gray, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Ratliff, Reinhardt, Richards, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Turner, Vincent, Walton, Wayne, Weaver, Yonts, Zimmerman.

Floor Amendments

Floor Amendment No. 55 to the Committee Substitute No. 2 to **HB 1**, by Representative J. Arnold:

On page 22, line 15, by changing "***adopt rules***" to "***promulgate administrative regulations***".

On page 22, line 18, by changing "***rules***" to "***administrative regulations***".

On page 22, line 20, by changing "***adopt rules***" to "***promulgate administrative regulations***".

On page 22, line 22, by changing "***rules***" to "***administrative regulations***".

On page 22, line 26, by changing "***rules***" to "***administrative regulations***".

On page 23, lines 4 and 5, by changing "***rules and regulations established***" to "***administrative regulations promulgated***".

On page 24, line 9, by changing "***adopt***" to "***promulgate as administrative regulations***".

On page 24, line 11, by changing "***rules***" to "***administrative regulations***".

On page 24, line 26, by changing "***rules***" to "***administrative regulations***".

On page 25, line 4, by changing "***rules established***" to "***administrative regulations promulgated***".

On page 37, line 4, by deleting "***to faculty and staff of the respective institutions,***".

Floor Amendment No. 56 to the Committee Substitute No. 2 to **HB 1**, by Representative Damron:

On page 129, after "programs" on line 15 by removing the brackets and strikethroughs in lines 15 through 20.

Motions, Petitions and Communications (Cont.)

Representative Bratcher moved the adoption of the following **HR 11**:

HR 11, A RESOLUTION urging a moratorium on all development in Jefferson County's flood plain.

WHEREAS, sustained, unrestrained, and, at times, irresponsible development in Jefferson County's flood plain has created many standard of living hardships and tragic disasters in Jefferson County; and

WHEREAS, Jefferson County government is now reviewing this problem and evaluating continued development in the county's flood plain; and

WHEREAS, Cornerstone 2020, a planning authority compact between Jefferson County and all local city governments, is presently being processed through each of the aforementioned governmental bodies;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges Jefferson County's city and county governments to put a five-year moratorium on all development in Jefferson County's flood plain.

Section 2. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to the County Judge/Executive of Jefferson County and to the Mayor of the City of Louisville.

There being no objection **HR 11** was adopted.

Floor Amendments (Cont.)

Floor Amendment No. 57 to the Committee Substitute No. 2 to **HB 1**, by Representative Hogancamp:

On page 151, by inserting between lines 26 and 27, the following:

"***(7) Neither the board of regents for the Kentucky Community and Technical College System nor the Council on Postsecondary Education shall establish rules that limit the number of community college students who may enroll in a prebaccalaureate transfer program.***".

Floor Amendment No. 58 to the Committee Substitute No. 2 to **HB 1**, by Representative Barrows:

On page 5, line 12 by deleting "***six (6)***" and inserting "***five (5)***" in lieu thereof; and

On page 5, line 13 by deleting "***seven (7)***" and inserting "***six (6)***" in lieu thereof; and

On page 5, line 17 after "***chamber,***" by inserting "***a member appointed by the President of the Senate, a member appointed by the Speaker of the House of Representatives, a member appointed by the Minority Floor Leader of the Senate, a member appointed by the Minority Floor Leader of the House of Representatives,***"; and

On page 107, line 23 after "universities" by inserting "***, technical institutions,***"; and

On page 107, line 25 after "university" by inserting "***, technical institutions,***"; and

On page 107, line 26 after "5." by bracketing and striking through "Higher" and inserting "***Postsecondary***" in lieu thereof; and

On page 130, line 3 by deleting "***appointment***" and inserting "***service***" in lieu thereof; and

On page 141, line 24 by deleting "***appointment***" and inserting "***service***" in lieu thereof; and

On page 166, line 25 by deleting "***prerequisite to their appointment***" and inserting "***condition of their service***".

Motions, Petitions and Communications (Cont.)

Representative Damron moved that Floor Amendment No. 17 to the Committee Substitute No. 2 to **HB 1** be withdrawn. Agreed.

Representative Stumbo moved that no further business be conducted except the filing of floor amendments. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House does adjourn on this day, it does so until 12 noon on May 20, 1997. Agreed.

Recess

Representative Stumbo moved that the House recess until 4:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 59 to the Committee Substitute No. 2 to **HB 1**, by Representative Cave:

On page 1, after the enacting clause, by deleting the remainder of the bill in its entirety and inserting in lieu thereof the following:

"Section 1. This Act may be cited as the "Kentucky Postsecondary Education Improvement Act of 1997."

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

  (a) The general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development of a well-educated and highly-trained workforce; and

  (b) The education and training of the current and future workforce of the Commonwealth can provide its businesses and industries with the competitive edge critical to their success in the global economy and must be improved to provide its citizens the opportunity to achieve a standard of living in excess of the national average.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2020:

  (a) A seamless, integrated system of postsecondary education strategically planned and adequately funded to enhance economic development and quality of life;

  (b) A major comprehensive research institution ranked nationally in the top twenty (20) public universities at the University of Kentucky;

  (c) A premier, nationally-recognized metropolitan research university at the University of Louisville;

  (d) Regional universities working cooperatively with other postsecondary institutions to assure statewide access to baccalaureate and master's degrees of a quality at or above the national average;

  (e) A comprehensive community and technical college system with a mission that ensures, in conjunction with other postsecondary institutions, reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program, the training necessary to develop a workforce with the skills to meet the needs of new and existing industries, and remedial and continuing education to improve the employability of citizens; and

  (f) An efficient, responsive, and coordinated system of autonomous institutions that delivers educational services to citizens in quantities and of a quality that is comparable to the national average.

(3) The achievement of these goals will lead to the development of a society with a standard of living and quality of life that meets or exceeds the national average.

(4) The achievement of these goals will only be accomplished through increased educational attainment at all levels, and contributions to the quality of elementary and secondary education shall be a central responsibility of Kentucky's postsecondary institutions.

(5) The furtherance of these goals is a lawful public purpose that can best be accomplished by a comprehensive system of postsecondary education with single points of accountability that ensure the coordination of programs and efficient use of resources.

Section 3. KRS 164.001 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the chief executive officer of the institution;

(2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;

(3) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Technical College System;

(4) "Board of regents" means the governing board of each regional university and the Kentucky Technical College System;

(5) "Council" means the Council on Postsecondary Education created in Section 69 of this Act;

(6) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;

(7) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Technical College System;

(8) "Kentucky Technical College System" means:

  (a) The postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

  (b) Institutions created by the board of regents for the Kentucky Technical College System and approved by the

General Assembly;

(9) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;

(10) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

(11) "Nonteaching personnel" means any employee who is a full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;

(12) "Postsecondary education system" means the University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, the University of Kentucky Community College System, and the Kentucky Technical College System;

(13) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law*;*

(14) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;

(15) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;

(16) "Strategic agenda" means the state strategic postsecondary education agenda described in Section 6 of this Act; and

(17) "Technical institution" means an educational unit that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

There shall be a search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. The committee shall be composed of the chair of the Council on Postsecondary Education and seven (7) members of the council designated by the chair; the governor and seven (7) persons designated by the governor; and the members of the Legislative Research Commission. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group. There shall be unanimous agreement among the groups.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except for the first president appointed under subsection (2) of this section, the Council on Postsecondary Education shall set the qualifications for the position of president of the council. The council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider and interview candidates for the position of president and propose three (3) candidates to the council, which may select one (1) of them as president. If the council so chooses, it may reject the first list of names and direct the search firm to submit a list of three (3) additional names from which it may select a president. The council shall repeat this process until it finds a satisfactory person to serve as president of the council.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established by law.

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public

university. The council shall set the salary of the president which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. Personnel, with the exception of the executive director, employed by the Council on Higher Education on the effective date of this Act shall be transferred to the Council on Postsecondary Education at their same salary and benefit levels.

(8) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(9) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under Section 70 of this Act.

(10) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(11) Once appointed, the president shall serve at the pleasure of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall adopt a strategic agenda that identifies specific short-term and long-term strategies to achieve the goals established by law.

(2) (a) The purpose of the strategic agenda is to further the public purposes under Section 2 of this Act by creating high-quality, relevant, postsecondary education opportunities in the Commonwealth. The strategic agenda shall:

1. Serve as the public agenda for postsecondary education for the citizens of the Commonwealth, providing statewide priorities and a vision for long-term economic growth;

2. State those important issues and aspirations of the Commonwealth's students, employers, and workforce reflecting high expectations for their performance and the performance of the educational institutions that serve them; and

3. Sustain a long-term commitment for constant improvement, while valuing market-driven responsiveness, accountability to the public, technology-based strategies, and incentive-based motivation.

(b) An implementation plan to be developed by the council shall follow from the agenda, and all institutional plans and missions shall further the strategic agenda.

(3) The framework for the implementation plan of the state's strategic postsecondary education agenda shall include the following elements:

(a) A mission statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives;

(e) Benchmarks; and

(f) Incentives to achieve desired results.

(4) The implementation of the strategic agenda shall take into consideration the value to society of a quality liberal arts education and the needs and concerns of the business community.

(5) The council shall develop objective measures to judge the performance of the postsecondary education system and progress toward achievement of the goals stated in Section 2 of this Act. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental and regulatory agencies or specific data gathered by authorization of the council;

(b) Comparison of regions and areas within the Commonwealth, and comparisons of the Commonwealth to other states and the nation; and

(c) Measures of educational attainment, effectiveness, and efficiency including, but not limited to, those set forth in Section 80 of this Act, and the degree to which the unnecessary duplication of programs has been reduced among postsecondary institutions and low performance programs have been eliminated.

(6) The council shall review the goals established by law at least every four (4) years and shall review the strategies and objectives at least every two (2) years.

(7) (a) No later than six (6) months following the appointment of the first president of the Council on Postsecondary Education, the council shall adopt short-term strategies, objectives, and benchmarks for cooperation and collaboration between the University of Kentucky Community Colleges and the Kentucky Technical College System and for the reduction of unnecessary duplication to carry out the goals established in Section 2 of this Act. The strategies shall include, but not be limited to, the responsiveness to regional needs, the quality of programs, student ability to easily transfer programs, the number of articulation agreements, and the degree to which the two (2) systems promote achievement of the strategic agenda.

(b) The chancellor of the Community College System and the president of the Kentucky Technical College System shall meet at least quarterly to review progress toward meeting the short-term strategies developed pursuant to paragraph (a) of this subsection. Following each meeting, they shall submit a progress report to the president of the Council on Postsecondary Education.

(c) The Council on Postsecondary Education shall review the progress made in meeting the short-term objectives and benchmarks over a five (5) year period to determine the advisability of changing the governance of the University of Kentucky Community College System and the Kentucky Technical College System as a long-term strategy to achieve the goals.

(8) In developing the strategic agenda for postsecondary education, the council shall actively seek input from the Department of Education and local school districts to create necessary linkages to assure a smooth and effective transition for students from the elementary and secondary education system to the postsecondary education system. Upon completion of the strategic agenda for postsecondary education, the council shall distribute a copy to each local school district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in Section 2 of this Act. There are established in the State Treasury the following individual strategic investment and incentive trust funds:

(a) A research challenge trust fund;

(b) A regional university excellence trust fund;

(c) A technology initiative trust fund;

(d) A physical facilities trust fund;

(e) A postsecondary workforce development trust fund; and

(f) A student financial aid and advancement trust fund.

(2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.

(2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.

(3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, community college, Kentucky Technical College System, or agency authorized to issue the bonds to finance the capital project.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program and funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.

(2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the goals of the strategic agenda adopted by the Council on Postsecondary Education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The research challenge trust fund created by Section 7 of this Act may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.

(b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in Section 2 of this Act.

(c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The regional university excellence trust fund created by Section 7 of this Act shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.

(b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.

(c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop nationally-recognized programs of distinction and nationally-recognized applied research programs consistent with the goals established in Section 2 of this Act.

(2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for extending access to postsecondary education throughout the Commonwealth and for improving student learning.

(b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under Section 16 of this Act; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

(2) The council shall develop the criteria and process for submission of an application under this section. Any university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or

internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide financial assistance for the construction, improvement, renovation or expansion of the physical facilities of the postsecondary education system.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. Each university, community college, or institution in the Kentucky Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The postsecondary workforce development trust fund created by Section 7 of this Act is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.

(2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the- art equipment and technology needed to accomplish their missions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) The student financial aid and advancement trust fund created by Section 7 of this Act is intended to provide financial assistance that encourages student access to postsecondary education including technical institutions and colleges, community colleges, state-supported universities, and accredited private colleges and universities.

(b) Appropriations shall be made to the trust fund and allotted to universities, community colleges, and institutions in the Kentucky Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.

(c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

(2) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary accredited private and public institutions.

(3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to increase the availability of all postsecondary education programs throughout the state in the most efficient manner.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and

other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Technical College System is established and shall provide services to business and industry and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state. It shall serve as the entry point for employers and agencies seeking customized training to the extent possible.

(2) The Kentucky Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

- *(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;*
- *(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;*
- *(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;*
- *(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;*
- *(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;*
- *(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;*
- *(g) Enhance the flexibility and adaptability of Kentucky workers in an ever-changing and global economy through continuing education and customized training for business and industry;*
- *(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and*
- *(i) Improve the quality of life for Kentucky's citizens.*

(3) The board of regents for the Kentucky Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(4) The president through the faculty and accrediting procedures may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

(5) The president shall seek to offer an accredited associate degree in applied science by the year 2010.

(6) The board of regents shall award a degree to any student of the Kentucky Tech System who prior to the effective date of this Act earned a diploma or certificate from a program meeting the standard for a degree by making application to the board within five (5) years of the establishment of the degree program.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The president of the Kentucky Technical College System shall be appointed from candidates selected in a search by a search committee.

(2) The president shall possess the necessary skills to guide and direct the institutional mission of the system.

(3) The president shall be responsible for:

- *(a) Administering the programs and services for the system;*
- *(b) Acting as the appointing authority for personnel or delegating this authority to appropriate staff;*
- *(c) Coordinating the development of strategic actions to meet the overall strategic plan for postsecondary education as developed by the Council on Postsecondary Education;*
- *(d) Supervising the development of policies within the overall framework of the system;*
- *(e) Advocating the needs of the students, institutions, and staff under the president's jurisdiction;*
- *(f) Developing responsive programming that meets the needs of the region and state and does not unnecessarily duplicate, but coordinates, resources of the universities, community colleges, and the technical institutions;*
- *(g) Coordinating with other agency heads, both public and private, the development of training and education to meet the needs of Kentucky citizens and business and industry;*
- *(h) Preparing accountability reports and other reports as needed;*
- *(i) Preparing internal budget plans; and*

(i) Other duties as identified by the Council on Postsecondary Education.

(4) The president shall serve at the pleasure of the board.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 1998, the Kentucky Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the Cabinet for Workforce Development to the Kentucky Technical College System.

(a) The staff positions in the Department for Technical Education and the Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Technical College System.

(b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.

(c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

(d) The following provisions shall apply to the employees who are transferred from the Cabinet for Workforce Development to the Kentucky Technical College System, effective July 1, 1998:

1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;

2. Employees who have earned continuing status as defined in KRS 151B.010 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;

4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under Section 64 of this Act or the Kentucky Employees Retirement System under Section 34 of this Act;

5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and

6. Employees shall be provided life insurance coverage and optional insurance or investment programs; and

(e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the Cabinet for Workforce Development. Except that the board of regents for the Kentucky Technical College System shall establish a personnel dispute resolution system that results, in the final stage, in an independent third party appeal for all employees of the Kentucky Technical College System. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

(2) New employees hired after July 1, 1997, in the Kentucky Technical College System shall be governed by the rules and regulations established by the board.

(3) A regular full time employee may, with prior administration approval, take a maximum of six (6) credit hours each

term at any state supported postsecondary institution with tuition being waved by that institution.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The board of regents may provide medical and accident insurance for students enrolled in the Kentucky Technical College System institutions. The president, on behalf of the system, may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in institutions within the system. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and the coverage shall be approved by the commissioner of insurance.

(2) The board shall approve policies upon recommendation of the president to implement the medical and accident insurance program. The board may fix the rate of fees for all postsecondary and adult students, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the board.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president, on behalf of the board of regents for the Kentucky Technical College System, shall provide a full report and recommendations to the Council on Postsecondary Education by January 1 of each odd-numbered year. The report shall address the condition and operation of the system since the date of the previous report, and the capacity of the system to improve the knowledge and skills of Kentucky's adult population. It shall include outcome data as required by the Council on Postsecondary Education.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education shall establish regional advisory groups and shall provide necessary staff support to assist in the development of regional strategies for workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The regional advisory groups shall be encouraged to:

(1) Involve universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives from regional and state labor market areas; community-based organizations; citizens' groups; and other policy makers in the development of the regional strategies; and

(2) Assist with an annual review of progress toward the regional strategies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The universities, community colleges, and the Kentucky Technical College System shall recognize and accept for transfer credit all courses that were accepted for transfer prior to the establishment of the Kentucky Technical College System, unless a substantial change in the content for teaching the course can be demonstrated to have occurred. Disputes on these matters shall be settled by the Council on Postsecondary Education.

SECTION 24. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) On or before August 15 of 1999, and of each subsequent odd-numbered year, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group created by KRS 48.115, shall provide to each branch of government a budget planning report to include:

(a) A baseline analysis and projections of economic conditions and outlook;

(b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition; and

(c) The revenue implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years.

(2) The budget planning report shall include, but not be limited to, projections of personal income, employment, and preliminary planning estimates of general fund and road fund revenues to be used in the development of budgetary policy and guidelines for budget unit requests under KRS 48.040 and 48.050 for the next fiscal biennium.

Section 25. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    - (a) Secretary of State.
    - (b) Board of Elections.
    - (c) Registry of Election Finance.
4. Department of Law.
    - (a) Attorney General.
5. Department of the Treasury.
    - (a) Treasurer.
6. Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Offices of the Deputy Secretaries.
    - (g) Office of General Counsel.
    - (h) Medical Examiner Program.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
    - (a) Department of Education.
        - (1) Kentucky Board of Education.
        - (2) Education Professional Standards Board.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Arts Council.
    - (d) Kentucky Educational Television.
    - (e) Kentucky Historical Society.
    - (f) Kentucky Teachers' Retirement System Board of Trustees.
    - (g) Kentucky Center for the Arts.
    - (h) Kentucky Craft Marketing Program.
    - (i) Kentucky Commission on the Deaf and Hard of Hearing.
    - (j) Governor's Scholars Program.
    - (k) Governor's School for the Arts.
    - (l) Office of Development.
    - (m) Kentucky Heritage Council.
    - (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.

(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.

(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on ***Postsecondary***[~~Higher~~] Education.
(a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 26. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on ***Postsecondary***[~~Higher~~] Education[~~ (The state universities and colleges shall report through the Council on Higher Education)~~];
(2) Department of Military Affairs;
(3) Department of Local Government;
(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs; and
(7) Coal Marketing and Export Council.

Section 27. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

  (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or
  (b) Declaratory rulings; or
  (c) Intradepartmental memoranda not in conflict with KRS 13A.130; or
  (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
  (e) Rules, regulations, and policies of the governing boards of institutions ***that make up the postsecondary education system defined in Section 3 of this Act***[~~of higher education~~] pertaining to students attending or applicants to ***the***[~~such~~] institutions***, to faculty and staff of the respective institutions,*** or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

  (a) Commercial enterprises;
  (b) Retail businesses;
  (c) Service businesses;
  (d) Industry;
  (e) Consumers of a product or service; or
  (f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015(5), means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the

Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 28. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;[~~ and~~]

(z) Employees of the Kentucky Peace Corps***; and***

(aa) Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing ***in KRS 18A.005 to 18A.200***[~~herein~~] shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided ***in KRS 18A.005 to 18A.200***[~~herein~~].

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted towards years of experience for calculating benefits and compensation.

Section 29. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, ***Kentucky Technical College System,*** and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the State Investment Commission. Such fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 30. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the 15th of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the State Investment Commission. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; ***Kentucky Technical College System;*** Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 31. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University,[~~ and~~] Eastern Kentucky University***, and the Kentucky Technical College System***;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 32. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;[~~ and~~]
9. Eastern Kentucky University***; and***

10. Kentucky Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued; and

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 33. KRS 56.495 is amended to read as follows:

The boards of regents of the respective state~~[colleges or]~~ universities***, the Kentucky Technical College System,*** and the board of trustees of the University of Kentucky may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds or housing bonds, provided that prior to seeking the final approval required by KRS 56.491, the board of the state~~[college or of the]~~ university ***or the Kentucky Technical College System*** shall submit to the commission, through the cabinet, a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. The request shall include a general description of the project and its need, use, location, approximate size, and such other information as the cabinet may require. After approval by the commission, the cabinet shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project.

Section 34. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on ***Postsecondary***~~[Higher]~~ Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);~~[and]~~

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***; and***

(8) Employees of the Kentucky Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as members; and new employees as of July 1, 1998, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Technical College System.

Section 35. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the commission. It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsections (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsections (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 36. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

   (a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

   (b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

   (c) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education or his designee;

   (d) The executive director of the Kentucky Authority for Educational Television or his designee;

   (e) The state librarian or his designee;

   (f) The chief state school officer or his designee;

   (g) The adjutant general or his designee;

   (h) The commissioner of the Department of State Police or his designee;

   (i) The executive director of the Administrative Office of the Courts or his designee;

   (j) The executive director of the Public Service Commission or his designee;

   (k) One (1) representative of local governments to be appointed by the Governor; and

   (l) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

   (a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

   (b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

   (c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(j) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 37. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the council, to the Kentucky Information Systems Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Systems Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the

purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers; and
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise;

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 38. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University,[~~ and~~] Murray State University***, and the Kentucky Technical College System***, and members of the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall not be removed except for cause.

Section 39. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the ***Kentucky Technical College System***[~~Office of Kentucky Tech System of the Department for Adult and Technical Education in the Workforce Development Cabinet~~];

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The ***president of the Kentucky Technical College System***[~~commissioner of the Department for Adult and Technical Education~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions~~[hereunder]~~.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 40. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:~~[;]~~

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on:~~[;]~~

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on ***Postsecondary***~~[Higher]~~ Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on

Postsecondary[~~Higher~~] Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

Section 41. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned ***in this subsection***[~~herein~~].

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of[~~ nondegree programs in post secondary and vocational technical education, and may exercise the general powers and functions relating to a Kentucky technical system of state vocational technical schools,~~] state-operated ***secondary*** area vocational education ***and technology*** centers[~~, state technical institutes, and technology centers~~]. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) ***Secondary*** area vocational education ***and technology*** centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the ***Educational Professional Standards Board***[~~Kentucky Board of Education. Program standards and qualification of staff in the post secondary institutions shall be governed solely by the State Board for Adult and Technical Education~~]. ***In addition to direct appropriations, funds appropriated to support*** the cost of operating area vocational education ***and technology*** centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching ***specialties***[~~specialities~~]. [~~Such~~]Agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter ***45A***[~~45~~]. All[~~ such~~] agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 42. KRS 151B.030 is amended to read as follows:

The Department for Technical Education shall be divided according to the following organizational structure:

(1) The commissioner of the Department for Technical Education shall appoint a deputy commissioner for technical education pursuant to KRS 12.050, who shall serve as secretary to the State Board for Adult and Technical Education.[~~ The deputy commissioner shall also directly supervise the Office of the Kentucky Tech System, which is created by subsection (3) of this section.~~]

(2) There is hereby created a Division of ***Administrative***[~~Federal Programs and Support~~] Services within the Department for

Technical Education. The division shall be headed by a director appointed by the commissioner of the Department for Technical Education. The division shall be composed of organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

(3) There is hereby created an Office of ***Area Vocational Education and Technology Centers***[~~the Kentucky Tech System~~] within the Department for Technical Education. The office shall be headed by an office head appointed by the commissioner of the Department for Technical Education pursuant to KRS 12.050. The office head shall be an individual with a background in school administration and supervision and shall be otherwise reasonably qualified to carry out the duties of the office. The office shall be comprised of the system of state-operated ***secondary***[~~vocational technical schools and~~] area ***vocational education and technology*** centers[~~ known as the Kentucky Tech System~~]. The office shall be composed of the Division of School ***Management***[~~Operations~~], the Division of ***Curriculum Services***[~~Program Management~~], an Ombudsman, and an assistant for budget analysis. Each division shall be headed by a director appointed by the commissioner of the Department for Technical Education and shall be composed of such organizational entities as deemed appropriate by the commissioner of the Department for Technical Education as set forth by administrative order.

Section 43. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the ***state-operated area vocational education and technology centers***[~~Kentucky Tech System~~] school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with

the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) ***An***~~[No]~~ administrative body other than the State Board for Adult and Technical Education shall ***not*** promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. ~~[Such]~~Designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under Section 19 of this Act; however, they shall not have guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Technical College System counted toward years of experience for calculating benefits and compensation.

Section 44. KRS 151B.075 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall adopt written evaluation procedures for all certified and equivalent employees. The procedures shall be based upon recommendations received from the commissioner for adult education and literacy, the commissioner for technical education, and a committee composed of equal numbers of teachers, counselors, and administrators.

(2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.

(3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

(4) (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) workings days prior to the day when the responsibility for supervision ceases.

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.

(5) Teachers and administrators in the state-operated ***secondary area vocational education and technology centers***~~[schools]~~ shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:

(a) School or classroom management, as appropriate;
(b) Job knowledge and skills;
(c) Instructional management;
(d) Employee conduct; and
(e) Professional responsibility.

(6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:

(a) Job knowledge and skills;
(b) Quality of work;
(c) Employee conduct; and
(d) Professional responsibility.

(7) There shall be established by the state board an evaluation appeals procedure for certified or equivalent personnel in the Department for Adult Education and Literacy and the Department for Technical Education.

(8) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of the reconsideration, an employee may:

1. Submit a written response to any evaluation which shall be attached to the evaluation; and
2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.

(c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator; and

3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.

(9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the ***state-operated secondary area vocational education and technology centers***[~~Kentucky Tech System~~], this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the commissioner of the Department for Technical Education who shall make a final ruling. For other employees in the Department for Adult Education and Literacy and the Department for Technical Education, this appeal shall go to the appropriate office head and then to the commissioner.

(10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:

(a) Demoted to a position commensurate with abilities; or

(b) Terminated.

Section 45. KRS 151B.095 is amended to read as follows:

(1) There is hereby established the State Board for Adult and Technical Education to be attached to the Cabinet for Workforce Development, which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large. Members shall serve for terms of four (4) years. A chairperson shall be selected by the membership.

(2) The Governor shall make appointments to the board and fill any vacancies as they occur. Appointments shall conform to subsection (4) of this section.

(3) The terms of the appointees shall expire on June 30 in the appropriate year, and the terms of each new member appointed thereafter shall begin on July 1.

(4) The members of the State Board for Adult and Technical Education shall have the qualifications of school board members required by KRS 160.180, except that members of the board shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. ***A***[~~No~~] member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator.

(5) Members of the State Board for Adult and Technical Education shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

(6) The board ***may***[~~shall have the authority to~~] enter into agreements with other agencies in order to carry out services under its jurisdiction.

(7) The board ***may enter into agreements with the Kentucky Technical College System to provide space and equipment for programs for adults in the state-operated area vocational education and technology centers. The board shall not operate full-time diploma postsecondary programs unless there is an agreement to operate these programs with the Kentucky Technical College System***[~~shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational programs~~].

[~~(8) The board, in conjunction with the Council on Higher Education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational nature offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board and other general education programs.~~

~~(9) The board shall have the authority and responsibility to review and to make recommendations to the Council on Higher Education concerning both new and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational nature.~~]

Section 46. KRS 151B.110 is amended to read as follows:

The State Board for Adult and Technical Education shall have the management and control of state-operated ***secondary area vocational education and technology centers***[~~vocational schools~~], and all programs and services operated in these[~~ schools and~~] centers. In addition, it shall be responsible for adult education ***and literacy*** programs and services.

Section 47. KRS 151B.115 is repealed, reenacted, as a new section of KRS Chapter 164, and is amended to read as follows:

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on ***Postsecondary***[~~Higher~~] Education for the issuance of associate, baccalaureate, or graduate degrees.[~~ The State Board for Adult and Technical Education shall not operate or administer any programs for such degrees.~~] Joint programming and articulation of vocational-technical education ***nondegree*** programs with associate degree programs shall be pursued ***between the Kentucky Technical College System and other postsecondary institutions. A*** [~~when feasible. No~~] public institution of higher education[~~,~~

~~including the community colleges,]~~ shall ***not*** offer any~~[new]~~ program of a vocational-technical-occupational nature below the associate degree level without the consent of the~~[State]~~ board ***of regents*** for ***the Kentucky*** ~~[Adult and]~~ Technical ***College System and the approval of the Council on Postsecondary*** Education. The~~[State]~~ board ***of regents*** for ***the Kentucky*** ~~[Adult and]~~ Technical ***College System***~~[Education]~~, with approval of the Council on ***Postsecondary***~~[Higher]~~ Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Section 48. KRS 151B.165 is amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state ***secondary***~~[vocational technical schools and]~~ area vocational education ***and technology*** centers ***operated by the Department for Technical Education*** shall be free to all residents of Kentucky. The State Board for Adult and Technical Education shall fix the rate of tuition and fees for~~[postsecondary pupils and]~~ adults who are enrolled ***in secondary programs*** in the state- operated~~[vocational technical schools and]~~ area vocational education ***and technology*** centers ***under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Technical College System***.~~[The state board shall fix the rate of tuition and fees and the conditions on which postsecondary pupils and adults who are not residents of Kentucky shall be admitted. The state board shall fix such incidental fees as it deems necessary to meet such incidental expenses of postsecondary pupils and adults as may be incurred.]~~

Section 49. KRS 151B.175 is amended to read as follows:

(1) The commissioner of the Department for Technical Education is authorized to provide medical and accident insurance for students enrolled in the state ***secondary area technology centers***~~[vocational technical schools]~~ and area vocational education centers. The Department for Technical Education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in ***state-operated***~~[state vocational technical]~~ schools ***under its jurisdiction***~~[and area vocational education centers]~~. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The State Board for Adult and Technical Education, upon the recommendation of the commissioner of the Department for Technical Education, shall promulgate administrative regulations to implement the medical and accident insurance program. The State Board for Adult and Technical Education may fix the rate of fees for all secondary~~[and postsecondary]~~ students~~[and adults]~~, the provisions of KRS 151B.165 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the State Board for Adult and Technical Education.

Section 50. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Office for Workforce Analysis and Research within the Office of the Secretary of the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with the Adult and Education Act, 20 U.S.C. secs. 1201 et seq.; the Carl D. Perkins Vocational Education Act, 29 U.S.C. secs. 2301 et seq.; the Job Training Partnership Act, 29 U.S.C. secs. 1501 et seq.; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to, the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Workforce Development, who shall serve as vice chairman;

(c) The executive director of the Bluegrass State Skills Corporation;

(d) The executive director of the Governor's Council on Vocational Education;

(e) The commissioner of the Department of Vocational Rehabilitation;

(f) The ***president of the Kentucky Technical College System***~~[commissioner of the Department for Technical Education]~~;

(g) The commissioner of the Department for Adult Education and Literacy;

(h) The commissioner of the Department for the Blind;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on ***Postsecondary***~~[Higher]~~ Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 51. KRS 154.12-205 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Employment Services, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the ***president***~~[chairman]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education, the secretary of the Cabinet for Workforce Development and the ***president***~~[chancellor]~~ of the~~[University of]~~ Kentucky ~~[Community]~~***Technical*** College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in

making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars ($100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The secretary of the Cabinet for Economic Development shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

Section 52. KRS 154.47-055 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 151B,~~[on or before January 1, 1995,]~~ the University of Kentucky, Eastern Kentucky University, Morehead State University, ***the University of Kentucky Community College System, and*** the ***Kentucky***~~[Community]~~***Technical*** College System~~[of the University of Kentucky, and the Kentucky Tech System]~~ in conjunction with the corporation shall develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.

(2) ***A***~~[No]~~ state agency provider of workforce training shall ***not*** reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.

(3) The integrated workforce training program and the curricula shall be designed in a manner that shall provide post-secondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

Section 53. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the ***president***~~[executive director]~~ of the Council on ***Postsecondary***~~[Higher]~~ Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term~~[, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at large members shall serve a term which shall expire on April 14, 1992]~~. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. ***A***~~[No]~~ member at the time of his appointment or during the term of his service shall ***not*** be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 54. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the Commissioner of the Department of Information Systems, the Secretary of the Education, Arts, and Humanities Cabinet, and the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

- (a) One (1) member of the Kentucky Board of Education;
- (b) One (1) member of the House of Representatives;
- (c) One (1) member of the Senate; and
- (d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall ***not*** receive[~~ no~~] compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

- (a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;
- (b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;
- (c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;
- (d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;
- (e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and
- (f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 55. KRS 156.671 is amended to read as follows:

The chief state school officer shall convene the Commissioner of the Department for Information Systems, one (1) representative of Kentucky Educational Television, one (1) representative of the Council on ***Postsecondary***[~~Higher~~] Education, and one (1) representative of the Department of Education to create a strategic plan for distance learning in the Commonwealth and submit it to the Legislative Research Commission by July 1, 1993. The plan shall set forth the Commonwealth's vision for developing a long-term and statewide distance learning strategy. It shall include, but not be limited to, definitions of the types of distance learning delivery systems, an evaluation process for determining and certifying the educational and cost effectiveness of each type of delivery system, comparisons of the various types of delivery systems, and recommendations for implementation.

Section 56. KRS 156.740 is amended to read as follows:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on ***Postsecondary***[~~Higher~~] Education;

(b) The ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education;

(c) The chairman of the Kentucky Board of Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Cabinet for Workforce Development;[~~ and~~]

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority***; and***

(h) The president of the Kentucky Technical College System.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

Section 57. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Community Service Commission.

(2) The Kentucky Community Service Commission is created and shall be attached to the Council on ***Postsecondary***[~~Higher~~] Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on ***Postsecondary***[~~Higher~~] Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 58. KRS 158.646 is amended to read as follows:

(1) The Kentucky Institute for Education Research Board is hereby created.

(2) The board shall establish a corporation which can qualify and obtain status under Section 501(c)(3) of the Internal Revenue Code. The purpose and mission of the corporation shall be to solicit and raise funds through private foundations, grants, and government agencies to support the independent evaluation of the Kentucky Education Reform Act and related activities. The corporation shall serve as a stimulus and clearinghouse for Kentucky Education Reform Act related research projects.

(3) (a) The board shall cause an in-depth evaluation of the impact of Kentucky Education Reform Act to be performed. This evaluation shall include, but not be limited to, the effect of the reforms on students, individual schools, school systems, and educators. The evaluation shall also include an analysis of the reliability and validity of the changes in scores between baseline scores and scores from subsequent administrations of tests.

(b) The board shall make recommendations to the citizens and elected leaders of the Commonwealth concerning the enhancement of the benefits of the Kentucky Education Reform Act and the expansion and improvement of services to students.

(c) The board shall establish an organizational capacity to:

1. Develop and manage implementation of a research design to include the issuing of requests for proposals; awarding of contracts; and general oversight and coordination of the quality and quantity of research;

2. Conduct research in accordance with a comprehensive research design and establish priorities; and

3. Design and implement a comprehensive educational data information system.

(d) The board shall prepare an annual report of its activities and the activities of the corporation and forward copies to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on ***Postsecondary***[~~Higher~~] Education and make copies available to the citizens of the Commonwealth.

(e) The board shall hire an executive officer and other necessary personnel to carry out its responsibilities.

(f) The board shall consist of ten (10) members who shall initially be appointed to two (2) year terms by the Governor. The board shall select from its membership a chairperson and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies which occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

Section 59. KRS 158.799 is amended to read as follows:

The Kentucky Science and Technology Council, Inc., shall, in cooperation with the Department for Education and the Council on ***Postsecondary***[~~Higher~~] Education, develop and conduct a competition among Kentucky middle and high school students for the purpose of choosing a Kentuckian of national or international acclaim as a scientist, mathematician, or engineer for whom the programs developed under KRS 158.798 shall be named.

Section 60. KRS 160.730 is amended to read as follows:

(1) Parents or eligible students may challenge the content of a student record to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. The right to challenge shall also provide the opportunity for rebuttal to, and the correction, deletion, or expunction of, any inaccurate, misleading, or inappropriate information.

(2) A challenge to the record may take the form of an informal discussion among the parents, student, and school officials. Any agreement between these parties shall be reduced in writing, signed by all parties, and placed in the student's records. If no agreement can be reached, either party may request a formal hearing to the challenge which shall be conducted in accordance with procedures established by rules and regulations of the Department of Education and the Council on ***Postsecondary***[~~Higher~~] Education for educational institutions under their jurisdiction. ***The***[~~Such~~] rules and regulations shall provide that a formal hearing be conducted within a reasonable time after the request for a hearing, and an official of the educational institution who has no direct interest in the outcome of the challenge shall conduct the hearing and render a decision on the challenge within a reasonable time after the hearing. All parties to the challenge shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. Furthermore, school officials shall take the necessary action to implement the decision.

Section 61. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on ***Postsecondary***[~~Higher~~] Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) A generic assessment to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to, instructional leadership, management, and supervisory skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the chief state school officer shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 62. KRS 161.028 is amended to read as follows:

(1) Beginning July 15, 1990, there shall be an Education Professional Standards Board, with the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, suspend, and revoke teaching certificates;

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends and performance of certificated personnel and the quality of professional preparation programs. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly;

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request; and

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of institutions of higher education, two (2) of whom shall be deans of colleges of education at state-supported universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three

(3) one (1) year terms in succession as chairman. The executive secretary appointed by the chief state school officer from the Department of Education staff shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3) No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.

(4) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 63. KRS 161.165 is amended to read as follows:

(1) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on ***Postsecondary***[~~Higher~~] Education shall develop a coordinated, strategic plan for increasing the number of minority teachers in the Commonwealth. The plan shall include, but not be limited to, recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create awareness among secondary school guidance counselors of the need for minority teachers.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) The Education Professional Standards Board shall ***periodically*** submit a report to the Interim Joint Committee on Education[~~ no later than December 1, 1993,~~] that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 64. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community[~~ or junior~~] colleges established under the control of these universities***, and the Kentucky Technical College System and any technical institutions established under its control***;

(c) ***State-operated secondary***[~~State and~~] area vocational ***education or area technology centers***[~~schools~~], Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy, Budget, and Personnel within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development:

(l) The Department of Vocational Rehabilitation;

(m) The Kentucky Educational Collaborative for State Agency Children;

(n) The Governor's Scholars Program; and

(o) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board,

institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 65. KRS 161.567 is amended to read as follows:

(1) An optional retirement plan is hereby authorized for designated employees of public ***postsecondary education*** institutions~~[of higher education]~~ who are also eligible for membership in the Kentucky Teachers' Retirement System ***under***~~[pursuant to]~~ KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, fixed or variable in nature, or a combination thereof, at the option of the participant. The specific provisions of annuity contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.

(2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than three (3) companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, the following:

(a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;

(b) The efficacy of the contracts in the recruitment and retention of employees for the various state public ***postsecondary education*** institutions~~[of higher education]~~;

(c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

(d) The relation of the rights and benefits to the amount of contributions required;

(e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public ***postsecondary education*** institutions~~[of higher education]~~; and

(f) The ability of the designated companies to provide the rights and benefits under those contracts.

Section 66. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public ***postsecondary education*** institutions~~[of higher education]~~ identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an irrevocable election to participate in the optional retirement plan within thirty (30) days after their employment date. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public ***postsecondary education*** institution~~[of higher education]~~

which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 67. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's ***Postsecondary***[~~Higher~~] Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public ***postsecondary*** institution[~~ of higher education~~], the Council on ***Postsecondary***[~~Higher~~] Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on ***Postsecondary***[~~Higher~~] Education Student Advisory Committee;
3. Associations representing faculty from universities***,*** [~~and~~] community colleges***, and technical colleges***;
4. Associations representing university and community college alumni;
5. Higher education advocacy groups;
6. The Kentucky Board of Education; and
7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321,[~~ and~~] 164.821***,*** and [~~to the Council on Higher Education pursuant to KRS ~~]164.011[~~, except the student member~~]. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on ***Postsecondary***[~~Higher~~] Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS

168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 68. KRS 164.0053 is amended to read as follows:

(1) ***An***~~[No]~~ appointing authority shall ***not*** appoint himself or his spouse, or the Governor or his spouse***,*** to a~~[university]~~ governing board ***of a postsecondary institution*** created pursuant to KRS 164.131, 164.321, or 164.821, or to the Council on ***Postsecondary***~~[Higher]~~ Education created pursuant to KRS 164.011.

(2) ***A***~~[No]~~ full-time employee of a public institution of ***postsecondary***~~[higher]~~ education shall ***not*** be eligible to serve on the Council on ***Postsecondary***~~[Higher]~~ Education or on the governing board of another institution of ***postsecondary***~~[higher]~~ education, except the community college faculty representative ***and the technical college faculty and nonteaching personnel*** serving on the ***board of regents for the Kentucky Technical College System and the*** University of Kentucky Board of Trustees.

(3) ***A postsecondary institution shall not award an honorary degree to a sitting governor.***

(4) All~~[university]~~ governing board members created pursuant to KRS 164.131, 164.321, and 164.821 and the members of the Council on ***Postsecondary***~~[Higher]~~ Education shall ***not*** have ***a***~~[no]~~ conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

Section 69. KRS 164.011 is amended to read as follows:

(1) There ***is hereby created and established***~~[shall be]~~ a Council on ***Postsecondary***~~[Higher]~~ Education in Kentucky ***as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law***, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of ***fifteen (15) voting***~~[the chief state school officer, and seventeen (17) lay]~~ members appointed by the Governor***: thirteen (13) lay members, one (1) faculty member, and one (1) student member. There shall also be one (1) nonvoting member, the commissioner of education who shall serve ex officio. Lay members shall be appointed to the council with the consent of the Senate and the House of Representatives under KRS 11.160. Lay council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in Section 67 of this Act. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly***~~[: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member]~~.

(2) ***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 67 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation, assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect the minority racial composition of the Commonwealth. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than two (2) members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve. One (1) member shall be a full-time faculty member employed at a state public institution of higher education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by a majority vote of the faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary institutions. One (1)*** ~~[The student]~~ member shall be enrolled as a full-time student at a state public institution of ***postsecondary***~~[higher]~~ education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions***,*** ~~[of higher education and]~~ one (1) representative of the community college student body presidents elected from among themselves, ***and the student member on the board of regents for the Kentucky Technical College System*** shall elect by majority vote ~~[of the nine~~

~~(9) presidents~~] three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) ***In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments***[~~Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, and at least one (1) undergraduate degree recipient from an independent, nonprofit college or university licensed by the council to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council~~].

(4) ***Each lay member shall serve a term***[~~After the initial appointments, the lay members shall be appointed for regular terms~~] of six (6) years, except[~~ for the student member who shall serve a one (1) year term.~~] the initial appointments shall be as follows:

- (a) ***Three (3) appointments shall expire December 31, 1997***[~~Two (2) members shall serve one (1) year terms, one (1) of which shall be the student member~~];
- (b) ***Two (2) appointments shall expire December 31, 1998***[~~Three (3) members shall serve two (2) year terms~~];
- (c) ***Two (2) appointments shall expire December 31, 1999***[~~Three (3) members shall serve three (3) year terms~~];
- (d) ***Two (2) appointments shall expire December 31, 2000***[~~Three (3) members shall serve four (4) year terms~~];
- (e) ***Two (2) appointments shall expire December 31, 2001***[~~Three (3) members shall serve five (5) year terms~~]; and
- (f) ***Two (2) appointments shall expire December 31, 2002***[~~Three (3) members shall serve six (6) year terms~~].

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) ***The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair***[~~When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity~~].

(7) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.

(8) A quorum shall be a majority of the appointive membership of the council.

(9) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.

(10) Members shall not serve more than two (2) consecutive terms.

Section 70. KRS 164.020 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky shall:

(1) ***Develop and implement the state strategic postsecondary education agenda. The council shall provide for and direct the planning process and subsequent implementation plans based on the state strategic postsecondary education agenda as provided in Section 6 of this Act;***

(2) Revise the strategic agenda and implementation plan with the advice and counsel of the committee as set forth in Section 4 of this Act;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in Section 80 of this Act, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities, community colleges, and the Kentucky Technical College System;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of ***postsecondary***[~~higher~~] education in the Commonwealth***;***[~~.~~]

(7)[~~(2)~~] Develop ***plans that may be required by federal legislation***[~~and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute~~]. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on ***Postsecondary***[~~Higher~~] Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines***;***[~~.~~]

(8)[~~(3)~~] Determine tuition and approve the minimum qualifications for admission to the ***state postsecondary educational system***[~~public institutions of higher education~~]. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent.

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Technical College System. The council has sole discretion to devise policies that provide for allocation of funds among the universities, community colleges, and the Kentucky Technical College System. These policies shall reflect a commitment to academic quality and community service;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

[~~(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the Legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:~~

~~(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;~~

~~(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges; and~~

~~(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.~~

~~There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.~~]

(11)[~~(5)~~] Review and approve all capital construction projects ***covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions***[~~the cost of which exceeds four hundred thousand dollars ($400,000) approved by the governing boards of the state supported institutions of higher education prior to the institutions' submission of the projects to the Finance and Administration Cabinet or the State Property and Buildings Commission~~]. ***Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities, community colleges, and the Kentucky Technical College System;***

(12)[~~(6)~~] Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties***;***[~~.~~

~~(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.~~]

(13)[~~(8)~~] Develop a university track program within the University of Kentucky Community College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs***;***[~~.~~]

(14)[~~(9)~~] Define and approve the offering of all ***postsecondary***[~~higher~~] education ***technical,*** associate, baccalaureate, graduate, and professional degree***,***[~~ or~~] certificate***, or diploma*** programs in the state-supported ***postsecondary***[~~higher~~] education institutions***. The council shall expedite wherever possible the approval of requests from the Kentucky Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature.***

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

- ***(a) Consistency with the institution's approved mission and the state's strategic postsecondary education agenda implementation plan;***
- ***(b) Alignment with the priorities in the state strategic postsecondary education agenda;***
- ***(c) Elimination of duplication of programs within and among institutions; and***
- ***(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;***

(16) Identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

- ***(a) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.***
- ***(b) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.***
- ***(c) All courses approved for a standardized degree shall be transferable among all institutions granting that degree;***

(17) Review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges***, technical institutions,*** and new four (4) year colleges***;***[~~.~~]

(18) [~~The Council on Higher Education shall~~]Postpone the approval of any new program at a state ***postsecondary educational*** institution[~~ of higher learning~~], unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals***;***[~~.~~]

(19) Ensure the coordination and transferability of technology among postsecondary institutions in the Commonwealth including the development and implementation of a plan as a component of the strategic agenda for the coordination and transferability of technology;[~~Provided, nothing in this section, KRS 164.011, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.~~]

(20)[~~(10)~~] Approve the teacher education programs in the public institutions ***that comply with the standards for teacher certification established by the Education Professional Standards Board pursuant to Section 62 of this Act;***[~~.~~

~~(11) Elect a chairperson annually from the voting membership and appoint an executive director and staff needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. No relative of a Council on Higher Education member shall be employed by the agency.~~]

(21)[~~(12)~~] Constitute the representative agency of the Commonwealth in all matters of ***postsecondary***[~~higher~~] education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of ***postsecondary***[~~higher~~] learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment*;*[~~.~~]

(22)[~~(13)~~] *Maintain*[~~Develop~~] procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate[~~ after July 15, 1980~~]. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee*;*[~~.~~]

(23)[~~(14)~~] Monitor and *transmit a* report on compliance with KRS 164.351[~~. The report shall be transmitted~~] to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee*;*[~~.~~]

(24)[~~(15)~~] Develop in cooperation with each state *postsecondary educational* institution[~~ of higher education~~] a comprehensive orientation program *for new members of the council and the*[~~to be carried out by the respective institution for newly appointed~~] governing *boards*[~~board trustees and regents~~]. The orientation program shall include, but not be limited to, the[~~ presentation of~~] information concerning *the roles of the council, the state strategic postsecondary education agenda and the implementation plan, and* the respective institution's mission, budget, plans, policies, strengths, and weaknesses*;*[~~.~~]

(25) Develop a standardized accounting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under Section 5 of this Act;

(27) Employ consultants and other persons and employees as required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and does promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions through the waiver of tuition for college credit course work in the state-supported postsecondary education system. The policy shall permit a regular full time employee of a community college, with prior approval from the community college, to take a maximum of six (6) credit hours each term at any state-supported postsecondary institution with tuition being waved by that institution; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

Section 71. KRS 164.0205 is amended to read as follows:

The Council on *Postsecondary*[~~Higher~~] Education in Kentucky shall promote, support, and assist in the program created in KRS 158.798 by:

(1) Identifying college students who have a superior academic aptitude or achievement in math, science, and technology related course work to participate in this program;

(2) Educating higher education institutions as to the availability of this program and encouraging participation by administrators, faculty, and students;

(3) Establishing liaison and assisting in the coordination of any specific program component which involves college-level internships, scholarships, or career development.

Section 72. KRS 164.021 is amended to read as follows:

The president or chief executive officer of each four (4) year state institution of higher learning , *the chancellor of the community college system, and the president of the Kentucky Technical College System* shall serve on an advisory conference for the Council on *Postsecondary*[~~Higher~~] Education. The Advisory Conference of Presidents will receive the full agenda for each meeting of the council a reasonable time prior to the council meeting and, in the event of viewpoints differing from the Council on *Postsecondary*[~~Higher~~] Education, an elected spokesperson for the conference may meet with the council and the executive committee to present before the council the institutional positions on such issues. At least once each year the Council on *Postsecondary*[~~Higher~~] Education will meet with the Advisory Conference of Presidents.

Section 73. KRS 164.027 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. The contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of the college; provided, however, that the persons shall be classified as residents according to council administrative regulations and shall be eligible for admissions to the junior college.

(2) The Council on ***Postsecondary***[~~Higher~~] Education shall pay to the college not more than two hundred dollars ($200) per school year for each student enrolled. The payments shall be additional to the annual tuition fees paid by each student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 74. KRS 164.028 is amended to read as follows:

There shall be established in the Council on ***Postsecondary***[~~Higher~~] Education an Office of Professional Education Preparation Programs. The office shall have as its principal responsibility the coordination, development, and implementation, through appropriate means, of educational activities directed toward solving the problem of professional manpower distribution in the Commonwealth. For the purposes of KRS 164.028 to 164.029, the words "profession" and "professional" mean medicine and dentistry.

Section 75. KRS 164.0282 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall:

(1) Employ a director and sufficient staff to administer the professional education preparation programs;

(2) Formulate guidelines and policies governing program activities and fund expenditures;

(3) Allocate funds to appropriate agencies, organizations, and institutions for the purpose of conducting activities approved in accordance with guidelines and policies;

(4) Recognize regional groups made up of professionals, educators, and consumers, which shall serve in an advisory capacity to the council in accordance with guidelines and policies;

(5) Recognize a group made up of professionals, educators and consumers which shall serve in an advisory capacity to the council on all program matters;

(6) Develop and maintain a mechanism for evaluating the impact of the program activities on admissions to, and graduation from, professional schools, and on professional manpower distribution;

(7) Conduct specific program activities which are beyond the capability of a single institution, agency, or organization, or when it is determined that it would be inappropriate for such institutions, agencies, or organizations to conduct the activity;

(8) Establish liaison with and provide assistance to the Kentucky Board of Education[~~ and the State Board for Occupational Education~~] in developing counseling and other related programs to encourage students from shortage areas to prepare for professional careers;

(9) Coordinate the development of a financial support system to enable potential professional students in underserved areas which will enhance their ability to apply for, be admitted to, and graduate from professional education programs;

(10) Report at least annually to the appropriate committees and interim committees of the General Assembly on the operation of the program.

Section 76. KRS 164.029 is amended to read as follows:

The Area Health Education System in the Council on ***Postsecondary***[~~Higher~~] Education is hereby recognized.

Section 77. KRS 164.030 is amended to read as follows:

The governing board of each of the state ***postsecondary educational*** institutions[~~ of higher learning~~] shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on ***Postsecondary***[~~Higher~~] Education in regard to curricular offerings, entrance fees***,*** and qualifications for admission to and reports from their respective institutions.

Section 78. KRS 164.050 is amended to read as follows:

The members of the Council ***on Postsecondary Education*** shall receive ***one hundred dollars ($100)***[~~sixty five dollars ($65)~~] per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. Each institution shall pay the expenses of its own representatives. The expenses of the chief state school officer shall be paid by the state in the same manner as his other traveling expenses are paid.

Section 79. KRS 164.070 is amended to read as follows:

The council shall meet in the office of the ***president***[~~executive director~~] or such other place as it designates.

Section 80. KRS 164.095 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

(b) "Institution" means public universities, their subdivisions, ***community colleges,*** and the[~~ University of~~] Kentucky ***Technical***[~~Community~~] College System.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky ***postsecondary educational***[~~public~~] institutions[~~ of higher education~~] and to provide a method for evaluating each institution's progress toward meeting specific ***goals, principles, strategies, objectives, and benchmarks as set forth in the strategic agenda established in Section 6 of this Act***[~~standards~~]. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified ***with the advice of***[~~through a collaborative effort involving~~] the ***postsecondary educational***[~~higher education~~] institutions and the Council on ***Postsecondary***[~~Higher~~] Education.

(3) The Council on Postsecondary Education shall develop and implement a system of accountability for the postsecondary education institutions that measures:

(a) Educational quality and educational outcomes;

(b) Student progress in the postsecondary system;

(c) Research and service activities;

(d) Use of resources;

(e) Other performance or outcomes that support the achievement of the strategic agenda, including involvement in quality enhancement of elementary and secondary education; and

(f) Other indicators as deemed appropriate by the Council on Postsecondary Education.

(4) The Council on Postsecondary Education shall collect information, maintain a comprehensive database, and publish reports on the condition of the postsecondary education system that include but are not limited to student enrollments, utilization of facilities, and the finances of the institutions[~~The accountability process shall be implemented in phases as follows:~~

~~(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:~~

~~1. Total student credit hours produced, by institution and by discipline;~~

~~2. Total number of degrees awarded, by institution and by discipline;~~

~~3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;~~

~~4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;~~

~~5. Pass rates on professional licensure examinations, by institution;~~

~~6. Institutional quality as assessed by follow up surveys of alumni, parents, clients, and employers;~~

~~7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.~~

~~8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;~~

~~9. Student course demand analysis;~~

~~10. Classroom utilization;~~

~~11. Research and public service activities, including activities supporting elementary and secondary education reform;~~

~~12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;~~

~~13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry level curriculum courses; and~~

~~14. The number of full-time students who have transferred from a two-year, post secondary institution and the number of these students who have successfully completed a four-year program~~].

(5) [~~(b) Beginning December 1, 1993, ~~]The Council on ***Postsecondary***[~~Higher~~] Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

Section 81. KRS 164.125 is amended to read as follows:

(1) The University of Kentucky shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, master degree programs, specialist degree programs above the masters-degree level, and joint doctoral programs in cooperation with other state-supported ***postsecondary educational*** institutions[~~ of higher education~~] in the state;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

(2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs and shall be the only institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution.

(3) The University of Kentucky is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system, as provided by KRS Chapter 164.

Section 82. KRS 164.131 is amended to read as follows:

(1) ***(a)*** The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(b) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.

(e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;

2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;

3. Three (3) members shall serve three (3) year terms;

4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;

5. Three (3) members shall serve five (5) year terms; and

6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) (a) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) ***A***~~[No]~~ member of the administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(7) A member of the board shall not serve more than two (2) consecutive terms.

Section 83. KRS 164.150 is amended to read as follows:

A~~[No]~~ member of a governing board of a public institution of ***postsecondary***~~[higher]~~ education shall ***not*** be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 84. KRS 164.260 is amended to read as follows:

The board of trustees may acquire additional lands or other property or material ***under Section 129 of this Act and KRS 45.750(1)(f)*** for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.

Section 85. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all ***state***~~[public]~~ supported ***postsecondary educational*** institutions~~[of higher learning]~~ in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency and any court of law upon request or issuance of a subpoena.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on ***Postsecondary***[~~Higher~~] Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all ***state***[~~public~~] supported ***postsecondary educational*** institutions[~~ of higher education~~] in Kentucky.

Section 86. KRS 164.287 is amended to read as follows:

Each board of regents or trustees of the state-supported ***postsecondary educational*** institutions[~~ of higher learning~~] is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Section 87. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state ***postsecondary educational*** institution[~~ of higher education~~] is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of ***the***[~~such~~] institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of ***a*** state ***postsecondary educational*** institution[~~ of higher education~~] through a retirement program sponsored by the state ***postsecondary educational*** institution[~~ of higher education~~] on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty, and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

Section 88. KRS 164.288 is amended to read as follows:

Any of the ***state postsecondary educational*** institutions[~~ of higher education~~] or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials, or funds by way of gift, grant, or loan for the purpose of higher education, including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials, and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans or grants.

Section 89. KRS 164.289 is amended to read as follows:

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any ***postsecondary educational*** institution[~~ of higher education~~] supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Section 90. KRS 164.2891 is amended to read as follows:

Any university ***or postsecondary educational institution*** under the jurisdiction of the Council on ***Postsecondary***[~~Higher~~] Education may have a faculty member as a voting member of its board of trustees or regents.

Section 91. KRS 164.295 is amended to read as follows:

The six (6) state universities shall provide:

(1) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate programs of instruction;

(2) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, graduate programs of instruction at the masters-degree level in education, business, and the arts and sciences, specialist degrees***,*** and programs beyond the masters-degree level to meet the requirements for teachers, school leaders***,*** and other certified personnel;

(3) Research and service programs directly related to the needs of their primary geographical areas;

(4) And, may provide programs of a community college nature in their own community comparable to those listed for the University of Kentucky Community College System, as provided by this chapter.

Section 92. KRS 164.310 is amended to read as follows:

There shall be a board of regents for each of the state ***universities***[~~colleges~~], to be known as the board of regents of the .... State University ***and a board of regents for the Kentucky Technical College System***[~~(or College)~~].

Section 93. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University,[~~ and~~] Northern Kentucky University***, and the Kentucky Technical College System*** shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board ***of the regional universities*** shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Technical College System shall consist of eight (8) members appointed by the Governor and three (3) members as described in subsections (6)(b), (7)(b), and (8)(b) of this section. No more than two (2) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments ***to the board of regents for the Kentucky Technical College System*** shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) ***Two (2) members***[~~One (1) member~~] shall serve[~~ a~~] three (3) year ***terms***[~~term~~];

(d) One (1) member shall serve a four (4) year term;

(e) ***One (1) member***[~~Two (2) members~~] shall serve ***a*** five (5) year ***term***[~~terms~~]; and

(f) Two (2) members shall serve six (6) year terms.

A member of a board of regents shall not be appointed for more than two (2) consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) ***(a)*** The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for

reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for ***the*** original election.

(b) The faculty member of the Kentucky Technical College System shall serve a three (3) year term and until his successor is named. The faculty representative shall be elected by means of a process established by the board. The faculty member may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(7) ***(a)*** The nonteaching personnel member ***in a regional university*** shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Technical College System shall be any full-time staff member excluding a president, vice president, academic dean, academic department chair, or other administrator. The nonteaching personnel member shall represent all nonteaching employees including, but not limited to, support and clerical personnel.. The nonteaching personnel member shall serve a three (3) year term and until his successor is named. The nonteaching personnel member shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) ***(a)*** The student member ***on a regional university board*** shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) One (1) full-time student member shall be elected to the board of regents for the Kentucky Technical College System. The student member shall be elected by means of a process established by the board. The student member shall serve a one (1) year term beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy.

(9) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act, as a condition of their service.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(11) The initial board of the Kentucky Technical College System shall be appointed by July 31, 1997.

Section 94. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the ***appropriate institution***[~~university or college~~].

Section 95. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities***,*** and ***of the Kentucky Technical College System, a***[~~state colleges, no~~] person who is a member of either house of the Kentucky General Assembly shall ***not*** serve as a member of the board of trustees or board of regents of any state-supported ***institution***[~~college or university~~].

Section 96. KRS 164.340 is amended to read as follows:

The governing board shall meet quarterly at the ***institution***[~~university or college~~] or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Section 97. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and ***the Kentucky Technical College System***[~~colleges~~] is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

- ***(a)***[~~(1)~~] Receive grants of money and expend the same for the use and benefit of the university or college;
- ***(b)***[~~(2)~~] Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;
- ***(c)***[~~(3)~~]Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;
- ***(d)***[~~(4)~~] Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and
- ***(e)***[~~(5)~~]Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Technical College System, upon recommendation of the president of the system, shall:

- ***(a) Develop and implement guidelines for the preparation of budget requests by the administrators of the institutions within the system;***
- ***(b) Adopt a consolidated budget request upon the recommendation of the president of the system for submission to the Council on Postsecondary Education for approval;***
- ***(c) Adopt an allocation process for distributing the funds appropriated to the system by the General Assembly to the institutions within the system; and***
- ***(d) Assure that the budget planning and implementation processes are consistent with the adopted long-term and biennial strategic agenda for postsecondary education and with the missions of the institutions within the system.***

Section 98. KRS 164.351 is amended to read as follows:

(1) State colleges and universities ***and the Kentucky Technical College System*** shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.

(2) Each state ***technical institution, community*** college, or university shall inform students of the name and telephone number of a ***technical institution, community college,*** college, or university counselor trained to counsel persons about the human immunodeficiency virus.

Section 99. KRS 164.352 is amended to read as follows:

If a board of trustees or regents of a state-supported institution of ***postsecondary education***[~~higher learning~~] provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Section 100. KRS 164.360 is amended to read as follows:

(1) ***(a)*** Each board of regents ***for the universities*** may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(b) The board of regents for the Kentucky Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix

their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) ***A***[~~No~~] person shall ***not*** be employed for a longer period than four (4) years. ***A***[~~No~~] person shall ***not*** be employed at an institution where his relative serves on the board of regents for that institution.

(3) Each board may remove the president of the university or ***the Kentucky Technical College System***[~~college~~], and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 101. KRS 164.365 is amended to read as follows:

(1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries***,*** and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University ***and the Kentucky Technical College System***, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.

(2) The board of regents for the Kentucky Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.

Section 102. KRS 164.400 is amended to read as follows:

The respective boards of regents of the state universities and colleges ***and the Kentucky Technical College System*** shall establish[~~ such~~] incidental fees and nonresident tuition fees [~~as will be~~] sufficient for the purpose of paying the incidental expenses of the university or college and [~~as are~~] consistent with the recommendations of the Council on ***Postsecondary***[~~Higher~~] Education. [~~No~~]Money derived from nonresident tuition or other fees paid by students shall ***not*** be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Section 103. KRS 164.410 is amended to read as follows:

(1) The governing board of ***a postsecondary education***[~~an~~] institution[~~ of higher education~~] may purchase or lease land ***under Section 129 of this Act*** for the purpose of securing the erection of buildings[~~,~~] and may receive by any legal mode of conveyance, purchase***,*** and hold property ***under Section 129 of this Act*** of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey ***under Section 129 of this Act*** those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 104. KRS 164.460 is amended to read as follows:

The president of each ***postsecondary education*** institution[~~ of higher education~~] shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount***,*** and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Section 105. KRS 164.4781 is amended to read as follows:

[~~By the beginning of the 1986-87 school year,~~]There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on ***Postsecondary***[~~Higher~~] Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting.[~~ By the beginning of the 1987-88 school year,~~] The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 106. KRS 164.540 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky as defined in KRS 164.011 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits, and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which ***any student would be refused entrance on the basis of race, national origin, gender, creed, or religion***[~~Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races~~].

Section 107. KRS 164.600 is amended to read as follows:

(1) There shall be a[~~ local advisory~~] board ***of directors*** for each community college, except as provided in KRS 165.160. Each[~~ local advisory~~] board ***of directors*** shall***:***

(a) Evaluate the community college president and advise the chancellor of his or her performance. The chancellor has final authority for the appointment and termination of the community college president;

(b) Approve budget requests for recommendation to the president;

(c) Review and approve an annual operating budget and submit it to the board of trustees for approval as to the compliance with its guidelines; and

(d) Approve and implement a strategic plan that is developed in coordination with local business, industry, and civic leaders; campus constituents; and other postsecondary institutions in the region and that is consistent with the strategic agenda of the Council on Postsecondary Education[~~serve in an advisory capacity to the board and the head of the community college on the operation of the community college~~].

(2) The president of each community college shall have full authority and discretion regarding the use and management of the approved budget.

(3)[~~(2)~~] Each[~~ local advisory~~] board ***of directors*** shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor. The other two (2)[~~ local advisory~~] board members shall be one (1) member of the teaching faculty and one (1) member of the student body.[~~ After July 13, 1990,~~] An appointed member's term ***shall be***[~~is~~] six (6) years[~~; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four (4) years~~].

(4)[~~(3)~~] The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the[~~ local advisory~~] boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5)[~~(4)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6)[~~(5)~~] ***The***[~~Local advisory board~~] members ***of the board of directors*** shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

Section 108. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the Association of Independent Colleges and Schools, the commission for business schools, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means any ***postsecondary educational*** institution of higher learning which is accredited by the Southern

Association of Colleges and Schools, the commission on colleges, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Public Law 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(20) "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(21) "Secretary" means the United States Secretary of Education.

(22) "Vocational school" means any public vocational school***, technical institution, or technology center*** which is managed and controlled by the ***board of regents for the Kentucky Technical System***[~~State Board for Adult and Technical Education~~] and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or a vocational technical school accredited by the national association of trade and technical schools, or any successor, which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(23) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 109. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors. The board shall consist of seven (7) voting members who shall be appointed by the Governor. In addition, the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education and the secretary of the Department of Finance shall serve as nonvoting ex officio members. The term of office of appointed members shall be

four (4) years. Each member shall serve for the term for which he is appointed and until his successor is appointed.

(2) Appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a chairman and chairman-elect who shall each serve for a term of one (1) year. At the conclusion of the chairman's term of office, the chairman-elect shall become chairman for the succeeding year and the board shall elect from its voting membership a new chairman-elect.

(4) Board members shall receive compensation for their services, in the amount of sixty-five dollars ($65) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chairman in accordance with KRS 61.823, and either the chairman or the chairman-elect shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Section 110. KRS 164.753 is amended to read as follows:

(1) In the instance of loans the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***~~[Higher]~~ Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on ***Postsecondary***[~~Higher~~] Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 111. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on ***Postsecondary***[~~Higher~~] Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent[~~ nonprofit~~] college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the U.S. Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 112. KRS 164.810 is amended to read as follows:

(1) As used in KRS 164.810 to 164.870, the following terms shall have, unless the context shall otherwise indicate, the following meanings:

(a) "University of Louisville" means the university which is situated in a city of the first class, and which has heretofore constituted a municipal university within the meaning and application of KRS 165.010, et seq.;

(b) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky.

(2) Consistent with the provisions of KRS 164.026 and Chapter 239 of the 1968 Kentucky Acts, the University of Louisville shall be maintained as a state institution effective July 1, 1970, subject to its qualification to receive the benefits of such

status in the manner set forth in subsection (3) of this section.

(3) The University of Louisville, having been chartered by Chapter 137, Acts of 1845-6, approved February 7, 1846, effective in accordance with its terms on March 15, 1846; having become subject to the laws of the Commonwealth generally applicable to corporations of the same category according to the import of subsection seventeen of Section 59 of the present Constitution of the Commonwealth; and having duly filed in the office of the Secretary of State its acceptance of the present Constitution of the Commonwealth in accordance with Section 190 thereof; may qualify to receive the benefits of its status as a state institution, as provided in KRS 164.810 to 164.870, by action of its board of trustees in adopting and causing to be filed for public record such proceedings as are required by law, amending its charter or articles of incorporation in such manner as to conform to the provisions of KRS 164.810 to 164.870.

Section 113. KRS 164.815 is amended to read as follows:

(1) The University of Louisville shall provide:

(a) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, associate and baccalaureate degree programs of instruction;

(b) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, masters degree programs, specialist degrees above the masters degree level, doctoral degree programs, and joint doctoral programs in cooperation with other state-supported institutions of higher education;

(c) Upon approval of the Council on ***Postsecondary***[~~Higher~~] Education, professional degree programs including medicine, dentistry, law, engineering, and social professions.

(2) The University of Louisville is authorized to provide programs of a community college nature in its own community comparable to those listed for the community college system as provided in this chapter.

(3) The University of Louisville shall continue to be a principal university for the conduct of research and service programs without geographical limitation but subject to the implied limitation of KRS 164.125(2).

Section 114. KRS 164.821 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

(a) All persons appointed after the effective date of this Act shall be required to attend and complete an orientation program prescribed by the council under Section 70 of this Act as a condition of their service.

(b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

(c) An appointed member shall not serve more than two (2) consecutive terms.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) ***A***[~~No~~] member of the teaching or administrative staff of the university shall ***not*** be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

Section 115. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

(b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that ***the***[~~such~~] removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice chairperson and ***any***[~~such~~] other officers as it deems wise, including the annual election of a ***six (6)***[~~five (5)~~] member executive committee which shall have the powers that the board delegates to it and shall operate under ***the***[~~such~~] rules[~~ as~~] the board shall establish under its authority to make [~~such ~~]bylaws, rules, and regulations consistent with this chapter. ***The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after the effective date of this Act shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.***

(d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of[~~ such~~] reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the state strategic agenda for postsecondary education. Officers and officials shall be held accountable for the status of the institution's progress.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 116. KRS 164.915 is amended to read as follows:

The[~~By July 1, 1991, the~~] Colleges of Medicine at the University of Kentucky and the University of Louisville shall submit to the Council on ***Postsecondary***[~~Higher~~] Education a joint plan which defines an optional course of medical education for family practice and general practice physicians in a period of six (6) years following completion of secondary school. Family practice residency programs shall be completed in the two (2) years subsequent to the completion of medical education.

Section 117. KRS 164.927 is amended to read as follows:

The University of Kentucky and the University of Louisville, and their affiliated programs are hereby authorized to increase the number of residency positions for medical school graduates in primary care disciplines from the fiscal 1976 level by a total of seventy-six (76) additional positions during the 1977-78 biennium. These new positions shall be established in the following manner:

(1) For the fiscal year 1977 there shall be established twenty-eight (28) new positions; for fiscal year 1978 there shall be forty-eight (48) new positions.

(2) To provide adequate faculty supervision for these new residency positions, one (1) faculty position (1 FTE) is hereby authorized for each additional four (4) new residency positions established under the provisions of KRS 164.925 to 164.933.

(3) The number of the residency positions to be established at the University of Kentucky and at the University of Louisville

shall be determined by the Council on ***Postsecondary***[~~Higher~~] Education, using the policies and procedures for determining the allocation of these new residency positions as provided in KRS 164.929.

Section 118. KRS 164.929 is amended to read as follows:

(1) All new residency positions shall be sponsored by the University of Kentucky or the University of Louisville. The residency positions created by KRS 164.927 shall be served in sites approved by the appropriate specialty board for certification and by the Council on ***Postsecondary***[~~Higher~~] Education.

(2) Funding priority shall be given to programs in which all or a portion of the residency occurs in sites away from both the University of Kentucky and the University of Louisville.

(3) Each individual serving a residency under KRS 164.927 shall, within the total period of residency, undertake a minimum of three (3) months education in a community facility in Kentucky outside the counties of Fayette and Jefferson, or in any institution serving a medically underserved community as designated by the United States Department of Health, Education and Welfare, subject to the approval of the certifying board in each specialty, provided however that not more than twenty-five percent (25%) of the individuals from each university funded under this section shall be permitted to satisfy the three (3) month requirement in a medically underserved area in the counties of Fayette and Jefferson.

(4) The University of Kentucky and the University of Louisville shall recommend policies and procedures for determining the allocation of new residency positions for approval by the Council on ***Postsecondary***[~~Higher~~] Education using the following criteria:

(a) The available or expected number and types of qualified faculty necessary for the proper degree of supervision and teaching;

(b) The scope and volume of patient care;

(c) The amount of available physical facilities;

(d) The current number and types of residency positions offered at each university;

(e) Regional needs for the manpower trained under the provisions of KRS 164.927 to 164.933;

(f) The extent of involvement in education in primary care in ambulatory care settings; and

(g) Any other criteria which may be developed by the University of Kentucky and the University of Louisville and accepted by the Council on ***Postsecondary***[~~Higher~~] Education.

Section 119. KRS 164.933 is amended to read as follows:

The Council on ***Postsecondary***[~~Higher~~] Education shall coordinate the activities of the participating institutions, as described in KRS 164.925 to 164.931, to insure a comprehensive program for training individuals for the delivery of primary care in the Commonwealth.

Section 120. KRS 164.937 is amended to read as follows:

The University of Kentucky shall develop a Center of Excellence for Rural Health Care to collect and maintain statistical and other information relating to health manpower needs, health care delivery research, health policy, and health problems unique to rural populations and shall:

(1) Coordinate clinical rotations for health science students;

(2) Maintain the rural health science library;

(3) Establish a family practice residency program at a regional public medical center with decentralized clinical practice sites;

(4) Develop an accelerated program to enable registered nurses with associate degrees to pursue a masters degree in nursing in locations on and off affiliated college campuses;

(5) Coordinate the placement of emergency medicine clinical residents in rural hospitals;

(6) Implement the provisions of KRS 164.935;

(7) Maintain clinical training sites for students in the health professions;

(8) Establish and coordinate associate degree and bachelor degree programs for the education of physical therapists in a rural area;

(9) Establish and coordinate associate degree and bachelor degree programs in laboratory technology in a rural area; and

(10) Provide continuing education for health care professionals.

The University of Kentucky shall report to the Council on ***Postsecondary***[~~Higher~~] Education and the Legislative Research Commission a detailed, audited statement of expenditures for each program function in the Center of Excellence for Rural Health Care by September 1 of each year which enumerates expenditures for the preceding fiscal year.

Section 121. KRS 164.947 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education by regulation shall adopt standards and procedures for the licensing of

colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives.

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of a nonpublic college or to restrict religious instruction or training in a nonpublic college.

(3) All colleges as defined ***in KRS 164.945***[~~herein~~] shall be required to hold a license issued by the executive director of the Council on Higher Education ***or his successor,*** under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on Higher Education***, or its successor***. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses.

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers, or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

Section 122. KRS 164.981 is amended to read as follows:

As used in KRS 164.981 to 164.9819:

(1) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

(a) Irregularity and impairment in communication;

(b) Engagement in repetitive activity and stereotyped movement;

(c) Resistance to environmental change or change in daily routine; and

(d) Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability as defined in KRS 157.200;

(2) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(3) "Center" means the autism training center;

(4) "Client" means a person with the primary diagnosis of autism or autistic-like behavior; and

(5) "Expenses" means those reasonable and customary expenditures related to training and treatment of eligible clients as defined in administrative regulations promulgated by the council pursuant to KRS 13A.

Section 123. KRS 164.9811 is amended to read as follows:

(1) The Council on ***Postsecondary***[~~Higher~~] Education in Kentucky is authorized to operate a state autism training center, including:

(a) The acquisition by purchase, lease, gift, or otherwise of necessary lands;

(b) The construction of necessary buildings;

(c) The expansion, remodeling, altering, or equipping of necessary buildings; and

(d) The making of contracts by the council or its designee with any nonprofit institution, or any state, county, or local agency for the equipment, expenses, compensation of personnel, operation, and maintenance of any facility of an agency or institution used for the purposes of KRS 164.981 to 164.9819.

(2) The council shall select and contract with a public institution of higher education to carry out the provisions of KRS 164.981 to 164.9819.

Section 124. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of seven (7) members, four (4) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the Council on ***Postsecondary***[~~Higher~~] Education, the secretary of the Finance and Administration Cabinet, and the chairman of the Kentucky Higher Education Assistance Authority.

(4) The Governor shall appoint the four (4) directors from the general public to take office and to exercise all powers thereof immediately. Of the new members of the corporation so appointed, two (2) shall continue in office for a term of four (4)

years, and two (2) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the Governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 125. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges ***and technical institutions***.

(2) "Institutions" means all public supported ***postsecondary educational*** institutions[~~of higher education~~] in Kentucky recognized in KRS 164.100, 164.290, ***Section 17 of this Act,*** or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 126. KRS 164A.560 is amended to read as follows:

(1) The governing boards of the ***postsecondary educational***[~~public~~] institutions[~~of higher education~~] electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.

(2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:

(a) The treasurer of the ***institution***~~[university]~~ shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.

(b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Section 127. KRS 164A.565 is amended to read as follows:

(1) The governing board of each ***postsecondary educational institution***~~[university]~~ making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:

(a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;

(b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;

(c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;

(d) An endowment fund group consisting of funds, the principal of which is not currently expendable;

(e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members and organizations;

(f) A plant fund group consisting of:

1. Unexpended plant funds to be used for the acquisition of long lived assets for institutional purposes (capital construction funds);

2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment and other properties; and

3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.

(2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.

(3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

(4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.

(5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures and current status of each project shall be shown.

(6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.

(7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant

fund group.

(8) The governing boards of each institution shall make an annual report of the financial activity to the Council on ***Postsecondary***[~~Higher~~] Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Section 128. KRS 164A.570 is amended to read as follows:

The governing board of any ***postsecondary educational institution***[~~university~~] making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the ***president***[~~Executive Director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, and members of the governing board.

Section 129. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

   (a) Contractual services where no competition exists[~~, such as telephone service, electrical energy, and other public utility services~~];

   (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

   (c) Instructional materials available from only one (1) source;

   (d) Where rates are fixed by law or ordinance;

   (e) Library books;

   (f) Commercial items that are purchased for resale;

   (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

   (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

   (i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. ***Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.***

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the

grantor or ***lessor***[~~leasor~~] approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Section 130. KRS 165A.320 is amended to read as follows:

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on ***Postsecondary***[~~Higher~~] Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

Section 131. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the Kentucky Board of Education;

(3) "Department" means the ***Kentucky***[~~State~~] Department of Education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on ***Postsecondary***[~~Higher~~] Education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the University of Louisville, ***and institutions in the Kentucky Technical College System***[~~;but does not include any present or future state-supported junior colleges, unless by statute the same are given representation on the council~~];

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

   (a) Which may be used in aid of education in the public schools and state-supported institutions of higher education; and

   (b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services, or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

   (a) In aid of education; and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment, and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 132. KRS 168.040 is amended to read as follows:

(1) The authority shall consist of nine (9) members, as follows:

The chief state school officer, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the chief state school officer as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his term shall be the same as that of the chief state school officer by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities to be elected by the Council on ***Postsecondary***[~~Higher~~] Education; ***and*** five (5) additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

(2) Effective at 11:59 p.m. on June 30, 1994, all terms of gubernatorial appointees to the authority shall expire. Effective July 1, 1994, five (5) appointees nominated pursuant to KRS 164.005 and appointed by the Governor shall become members of the authority.

Section 133. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the chief state school officer, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the ***president***[~~executive director~~] of the Council on ***Postsecondary***[~~Higher~~] Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 134. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for Human Resources or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for Health Services of the Cabinet for Human Resources or the commissioner's designee; the chair of the Council on ***Postsecondary***[~~Higher~~] Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for Human Resources.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 135. KRS 343.020 is amended to read as follows:

(1) The Governor shall appoint an Apprenticeship and Training Council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of workplace standards and the ***president of the Kentucky Technical College System***[~~state official designated by the State Board for Adult and Technical Education as being in charge of trade and industrial education~~] shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council. The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of workplace standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.

(2) The council shall be attached to the Labor Cabinet for administrative purposes.

Section 136. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the provisions of KRS 367.650 to 367.670:

(1) Solicitations by an organization of contributions from its members and their families only, if membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(3).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services, and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by nonreligious organizations.

(3) Solicitations by a publicly-owned or nonprofit privately-endowed educational institution regulated by the Kentucky Board of Education, the Council on ***Postsecondary***[~~Higher~~] Education, or an equivalent public authority of the jurisdiction where the institution is located, from the alumni, faculty members, student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 137. The following KRS sections are repealed:

151B.160 Buildings for state vocational schools.

164.575 Definition for KRS 164.575 to 164.600.

164.582 Definition for KRS 164.583.

186.1865 Special Kentucky Tech license plates.

Section 138. Whereas it is critical that an orderly transfer be made to establish the Kentucky Technical College System by July 1, 1998, there is hereby established a statewide transition team to be composed of the current Commissioner for the Department for Technical Education, a representative of the finance and personnel offices for the Department for Technical Education, a representative from the Governor's Office for Policy and Management, and the Governor's Office, and to be headed by the State Budget Director. The transition team shall be appointed by the Governor within one month of the enactment of this Act. Planning and policy development for the use of all appropriations for the 1996-98 biennium related to operations, management, and support of the Kentucky Tech System, vocational-technical funds administered by the Cabinet for Workforce development, and other funds designated for these purposes, and transfer of the personnel and funds to the new system shall be administered by the State Budget Director, utilizing the appropriate transition staff. All such policy direction shall be communicated to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Education. Moreover, it is the intent of the General Assembly that all personnel and resources described in this section identified by the State Budget Director as being necessary to assist in carrying out the provisions of this section shall be made available to the Governor's Office for Policy and Management by the chief administrators of each agency. The purpose of this provision is to provide policy transition for the purpose of implementing the provisions of the Kentucky Postsecondary Education Improvement Act of 1997. This authority shall continue only until such time as the first president of the Kentucky Technical College System is employed by the board of regents for the Kentucky Technical College System.

Section 139. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 140. Whereas it is critical that an implementation plan be developed and specific personnel, board, and council appointments be made by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 60 the Committee Substitute No. 2 to **HB 1**, by Representative Ford:

On page 3, line 8, by deleting "***72***" and inserting in lieu thereof "***71***"; and

On page 9, line 14, by deleting "***73***" and inserting in lieu thereof "***72***"; and

On page 11, line 6, by deleting "***83***" and inserting in lieu thereof "***82***"; and

On page 18, lines 12 and 13, by deleting "***and the needs expressed by the regional advisory groups***"; and

On page 22, line 8, by deleting "***67***" and inserting in lieu thereof "***66***"; and

On page 22, line 9, by deleting "***36***" and inserting in lieu thereof "***35***"; and

On page 26, by deleting lines 25 through 27 in their entirety; and

On page 27, by deleting lines 1 through 9 in their entirety, and by renumbering remaining sections accordingly; and

On page 108, line 25, by deleting "***96***" and inserting in lieu thereof "***95***"; and

On page 111, line 1, by deleting "***70***" and inserting in lieu thereof "***69***"; and

On page 111, line 10, by deleting "***70*** " and inserting in lieu thereof "***69***"; and

On page 114, line 14, by deleting "***83***" and inserting in lieu thereof "***82***"; and

On page 120, line 9, by deleting "***65***" and inserting in lieu thereof "***64***"; and

On page 130, line 3, by deleting "***73***" and inserting in lieu thereof "***72***"; and

On page 133, line 1, by deleting "***139***" and inserting in lieu thereof "***138***"; and

On page 137, line 4, by deleting "***110***" and inserting in lieu thereof "***109***"; and

On page 138, line 3, by deleting "***70***" and inserting in lieu thereof "***69***"; and

On page 141, line 24, by deleting "***73***" and inserting in lieu thereof "***72***"; and

On page 147, line 2, by deleting "***139***" and inserting in lieu thereof "***138***"; and

On page 147, line 4, by deleting "***139***" and inserting in lieu thereof "***138***"; and

On page 147, line 13, by deleting "***139***" and inserting in lieu thereof "***138***"; and

On page 155, line 21, by deleting "***100***" and inserting in lieu thereof "***99***"; and

On page 166, line 25, by deleting "***73***" and inserting in lieu thereof "***72***"; and

On page 177, line 14, by deleting "***110***" and inserting in lieu thereof "***109***".

Floor Amendment No. 61 to the Committee Substitute No. 2 to **HB 1**, by Representative Marzian:

On page 107, line 15, after "reflect", by inserting "***equal gender representation to the extent possible and***";

On page 111, line 12, after "***representation,***", by inserting "***assure equal gender representation to the extent possible,***";

On page 111, line 17, after "***than***", by changing "***two (2)***" to "***three (3)***";

On page 138, line 4, after "***than***", by changing "***two (2)***" to "***three (3)***";

On page 138, line 7, after "***serve.***", by adding "***The Governor shall assure that the board has equal gender representation to the extent possible.***".

Floor Amendment No. 62 to the Committee Substitute No. 2 to **HB 1**, by Representative Cave:

On page 3, lines 2 and 3, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***";

On page 3, line 5, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 3, line 6, after "***(5)***" by deleting the language on lines 6 and 7; and

On page 3, line 8, by deleting "***(6)***"; and

On page 3, line 10, by changing "***(7)***" to "***(6)***"; and

On page 3, line 13, by changing "***(8)***" to "***(7)***"; and

On page 3, line 15, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 3, line 16, by changing "***(9)***" to "***(8)***"; and

On page 3, line 16, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***""; and

On page 3, line 16, by deleting at the end of the line the words "***the system***" and inserting "***the***";

On page 3, by deleting lines 17 and 18 in their entirety; and

On page 3, line 21, by deleting the "***; and***" and inserting a "***.***";

On page 3, by deleting the lines 22, 23, 24, and 25 in their entirety; and

On page 3, line 27, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 4, line 2, by changing "***(10)***" to "***(9)***"; and

On page 4, line 6, by changing "***(11)***" to "***(10)***";and

On page 4, line 9, by changing "***(12)***" to "***(11)***"; and

On page 4, line 12, by changing "***(13)*** to "***(12)***";

On page 4, line 12, after "***Kentucky***" by inserting "***and its community colleges***"; and

On page 4, lines 15 and 16, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***""; and

On page 4, line 17, by changing "***(14)***" to "***(13)***"; and

On page 4, line 19, by changing "***(15)***" to "***(14)***"; and

On page 4, line 23, by changing "***(16)***" to "***(15)***"; and

On page 4, line 26, by changing "***(17)***" to "***(16)***"; and

On page 5, line 1, by changing "***(18)***" to "***(17)***"; and

On page 5, line 8, after the subsection number "***(1)***" delete the word "***The***" and insert the word "***A***"; and

On page 5, line 8, after the word "***is***" by deleting the remainder of the line in its entirety and inserting in lieu thereof "***temporarily created to***"; and

On page 5, line 9, delete the word "***established***" and insert in lieu thereof "***serve as the search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group.***

(2)"; and

On page 5, line 19, by changing "***(2)***" to "***(3)***"; and

On page 5, lines 20 through 22, by deleting lines 20 through 22 in their entirety and inserting in lieu thereof "***may meet as often as needed until a president has been appointed; however, once the initial president has been appointed by the council, the Strategic Committee on Postsecondary Education shall be immediately terminated and shall no longer exist for any purpose.***"; and

On page 5, line 23, by changing "***(3)***" to "***(4)***"; and

On page 6, by deleting lines 1 through 27 in their entirety; and

On page 7, by deleting lines 1 through 18 in their entirety; and

On page 12, line 27, after the comma, by inserting "***community college,***"; and

On page 13, line 1, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 15, line 26, by deleting the first appearance of the word "***and***" and inserting "***, community college, or institution in***" and deleting the words "***Community and***"; and

On page 15, line 27, by deleting the word "***College***" and inserting in lieu thereof the word "***Institution***"; and

On page 16, line 12, by deleting the word "***or***" and insert "***, community college, or institution in***"; and

On page 16, line 13, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 16, lines 25 and 26, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 17, line 12, by deleting "***and***" and inserting "***, community college or institution in***"; and

On page 17, line 12, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 19, between lines 3 and 4, by inserting the following:

"SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Technical College System is established and shall provide services to business, industry, and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state. It shall serve as the entry point for employers and agencies seeking customized training to the extent possible.

(2) The Kentucky Technical College System shall be responsive to the needs of students, business, and industry in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

- ***(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;***
- ***(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;***
- ***(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;***
- ***(d) Enhance the relationship of credentials between secondary and postsecondary programs that permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;***
- ***(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;***
- ***(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;***
- ***(g) Enhance the flexibility and adaptability of Kentucky workers in an ever-changing global economy through continuing education and customized training for business and industry;***
- ***(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and***
- ***(i) Improve the quality of life for Kentucky's citizens.***

(3) The board of regents for the Kentucky Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(4) The president, through the faculty and accrediting procedures, may develop technical degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for these programs.

(5) The president shall seek to offer an accredited associate degree in applied science by the year 2010.

(6) The board of regents shall award a degree to any student of the Kentucky Tech System who prior to the effective date of this Act earned a diploma or certificate from a program meeting the standard for a degree by making application to the board within five (5) years of the establishment of the degree program."; and

By renumbering subsequent sections accordingly; and

On page 19, line 6, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 19, by deleting lines 7 through 11 in their entirety; and

On page 19, line 12, by deleting "***(2) The chancellors shall***"; and

On page 19, beginning on line 13, after "***committee.***" by deleting new language through line 17;

On page 19, line 18, by changing "***(3)***" to "***(2)***" and "***chancellors***" to "***president***"; and

On page 19, line 19, by deleting the words "***respective branches***" and inserting the word "***system***" in lieu thereof; and

On page 19, line 20, by changing "***(4)***" to "***(3)***" and "***Each chancellor***" to "***The president***"; and

On page 19, line 21, by deleting "***the***" and "***for the respective branches***"; and

On page 19, line 23, by deleting "***for the respective branch***"; and

On page 20, line 2, by deleting " ***under their***"; and

On page 20, line 3, by deleting "***respective jurisdictions***"; and

On page 20, line 12, by deleting "***president***" and inserting "***Council on Postsecondary Education***"; and

On page 20, line 13, by changing "***(5)***" to "***(4)***", by changing "***Each chancellor***" to "***The president***", and by changing "***president***" to "***board***"; and

On page 20, line 16, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 20, line 25, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 21, lines 2 and 3, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 21, line 5, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 21, lines 8 and 9, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 21, line 12, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 22, line 25, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 23, lines 3 and 4, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

Beginning on page 23, line 6, and ending on page 25, line 17 by deleting SECTION 19 in its entirety;

On page 25, line 20, by deleting the words "***Community and***"; and

On page 25, line 20, by deleting the word "***College***" and inserting in lieu thereof the word "***Institution***"; and

On page 25, line 22, by deleting the words "***Community and***"; and

On page 25, line 23, by deleting the word "***College***" and inserting in lieu thereof the word "***Institution***"; and

On page 25, line 27, by deleting the words "***Community and***"; and

On page 25, line 27, by deleting the word "***College***" and inserting in lieu thereof the word "***Institution***"; and

On page 26, line 17, by deleting the words "***Community and***"; and

On page 26, line 18, by deleting the word "***College***" and inserting in lieu thereof the word "***Institution***"; and

On page 26, line 19, by deleting all the words after "***Postsecondary***" the first time it appears; and

Beginning on page 27, line 10 and ending on line 23, by deleting SECTION 24 in its entirety and by renumbering subsequent sections accordingly; and

On page 27, line 26, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 42, lines 2 and 3, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 42, line 5, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 42, line 11, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 42, line 18, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 43 line 19 by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 44, line 16, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 46 line 13, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 47 line 11, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical***

Institution"; and

On page 47 line 15, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 48 line 26, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 49 line 4, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 58, line 4, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 58, line 26, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 59, line 8, by deleting "***chancellor for the Technical Institutions' Branch***" and inserting in its place the word "***president***";

On page 59, line 9, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 70, lines 8 and 9, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 70, line 11, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 70, line 13, after "***shall***", by changing "***have no***" to "***not have***";

On page 70, line 17, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 74, line 9, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 74, lines 13 and 14, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 75, line 17, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 75, line 20, by deleting the new language, and by removing the brackets and strikethroughs from the word "~~[consent]~~";

On page 75, line 21, after "***Kentucky***", by deleting "***Community***", by removing the ending bracket after "~~[Adult]~~", by placing an ending bracket after and striking through "and", and after "Technical", by deleting "***College***" and inserting in lieu thereof "***Institution***"; and

On page 75, line 23, after "***Kentucky***", by deleting "***Community***", by removing the ending bracket after "~~[Adult]~~", by placing an ending bracket after and striking through "and", and after "Technical", by deleting "***College***" and inserting in lieu thereof "***Institution***"; and

On page 76, line 7, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***";

On page 76, lines 10 and 11, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 79, line 19, after (f), by inserting "***The president of the Kentucky Technical Institution System***", and by placing an ending bracket after "~~Education~~", and by removing the strikethrough from "~~;~~"; and

On page 79, line 20, by removing the strikethroughs and ending bracket; and

On page 79, line 21, by deleting "***(g)***" and by removing the brackets and strikethroughs; and

On page 79, line 22, by deleting "***(h)***", by removing all brackets and strikethroughs, and by deleting all new language; and

On page 79, line 23, by deleting all new language; and

On page 79, line 24, by deleting "***(i)***" and by removing the brackets and strikethroughs from "~~[(j)]~~"; and

On page 79, line 26, by deleting "***(j)***" and by removing the brackets and strikethroughs; and

On page 79, line 27, by deleting "***(k)***" and by removing the brackets and strikethroughs; and

On page 80, beginning on line 15 through line 20 on page 83, by deleting section 53 in its entirety and by renumbering subsequent sections accordingly; and

On page 84, line 8, by deleting "***president***" and by deleting brackets and strikethroughs from the existing language;

On page 84, line 9, by deleting "***and Technical***"; and

On page 85, line 16, by deleting "***and***", "***Kentucky***", "***and Technical***"; and deleting the bracket and strikethroughs from "~~[of the~~"; and

On page 85, line 17, by deleting the strikethroughs from the existing language ending with the second "Kentucky", by placing opening and closing brackets before and after the word "~~Tech~~" and before "~~Tech~~" by inserting the words "***Technical Institution***" and by deleting the bracket and strikethroughs from "System"; and

On page 90, line 14, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 100, line 16, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***""; and

On page 108, line 21, by placing brackets around and striking through the first "and", by inserting a "***,***" after "164.821"; by placing "[" before and striking through the word "to"; and

On page 108, line 22, by deleting the new language, brackets, and strikethroughs, and by placing a "]" after "KRS" and striking through all preceding language on the line, and after "164.011" by placing a "[" before and striking through the ","; and

On page 108, line 23, by deleting the new language and striking through "except the"; and

On page 108, line 24, by deleting the new language; and

On page 108, line 25, by deleting the new language and the "[" before "~~[student~~"; and

On page 110, line 5, by deleting the new language and brackets, and by placing "[" after "serve on", and by placing "]" after the word "on" at the end of the line, and by striking through the intervening language; and

On page 110, line 7, by deleting "***and technical***" and "***and nonteaching***"; and

On page 110, line 8, by deleting "***personnel***" and removing the opening and closing brackets and strikethroughs from the word "~~representative~~" and by deleting the new language; and

On page 110, lines 9 and 10, by deleting all of the new language and removing the opening and closing brackets and strikethroughs through the words "~~[University of Kentucky Board of Trustees]~~"; and

On page 110, line 11, by deleting the "***No***" and inserting in lieu thereof the word "***A***"; and

On page 110, line 11, after the word "***shall***", by inserting the word "***not***"; and

On page 110, line 24, after the word "Governor", by inserting "***: thirteen (13) lay members, one (1) faculty member, and one (1) student member. There shall also be one (1) nonvoting member, the commissioner of education, who shall serve in an ex officio capacity. Lay members shall be appointed to the council***"; and

On page 110, lines 25 through 27, by deleting the language beginning with "***, and***" and ending with "***Appointive***"; and by inserting "***. Lay***" before "***council***" on line 27; and

On page 111, line 19, after "***One***" by inserting "***(1)***"; and

On page 111, line 23, by deleting "***ten (10)***"; and

On page 111, line 24, by deleting the words "***nine (9) four-year state***" and inserting in lieu thereof "***postsecondary***"; and

On page 111, line 25, by deleting "***of higher education and the community college system***"; and

On page 111, line 27, by inserting "***postsecondary***" after "***of***" and by placing brackets around and striking through "higher education"; and

On page 112, line 2 by placing brackets and strike through around "of higher education"; and

On page 112, line 4, after "themselves," by inserting "***and the student member on the board of regents for the Kentucky Technical Institution System***"; and by placing brackets around and striking through "of the nine (9) presidents"; and

On page 114, line 4, after the word "***agenda***" by deleting "***with***" and inserting in lieu thereof a period "***.***"; and

On page 114, by deleting line 5 in its entirety; and

On page 114, line 9, by deleting "***with the advice and counsel***" and inserting in lieu thereof a semicolon "***;***"; and

On page 114, by deleting line 10 in its entirety; and

On page 114, line 15, by deleting "***committee, the***"; and

On page 114, line 20, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 115, line 22, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical***

Institution"; and

On page 115, line 23, by deleting all the words after " ***the***"; and

On page 115, line 24, by deleting "***Education and the***"; and

On page 115, line 26, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 117, lines 17 and 18, by deleting "***Community and Technical College***" and inserting in lieu thereof the words "***Technical Institution***"; and

On page 118, line 3, by removing the opening and closing brackets around and strikethroughs from the words "[~~University of~~]"; and

On page 118, line 4, by deleting "***and Technical***"; and

On page 118, line 17, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 121, line 13, by deleting "***, the Strategic Committee on Postsecondary Education***"; and

On page 121, line 25, by deleting "***, the Strategic***"; and

On page 121, line 26, by deleting "***Committee on Postsecondary Education,***"; and

On page 123, line 1, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 126, lines 12 and 13, by removing the opening and closing brackets and strikethroughs from the words "[~~University of~~]"; and

On page 126, line 13, by deleting "***and Technical***"; and

On page 130, line 13, by removing the opening bracket and strikethroughs from "[~~one (1)~~"; and

On page 130, line 14, by removing the strikethroughs and closing bracket from "~~member of the teaching faculty of the community college system,~~]"; and

On page 131, line 17, by removing the brackets and strikethrough from "[~~(a)~~]"; and

On page 131, lines 25 through 27, by removing the opening bracket before "[~~(b)~~" and by removing the strikethroughs from lines 25 through 27; and

On page 132, lines 1 through 7, by removing the strikethroughs and by removing the closing bracket at the end of line 7; and

On page 132, line 17, by inserting the word "***A***" after the number "(6)" and placing opening and closing brackets around and striking through the word "No"; and

On page 132, line 17, after the word "shall", by inserting the word "***not***"; and

On page 132, line 21, by deleting "***No***" and inserting in lieu thereof the word "***A***" and after the word "***shall***", by inserting the word "***not***"; and

On page 132, line 23, by inserting the word "***A***" before "No" and placing opening and closing brackets around and striking through the word "No"; and

On page 132, line 24, after the word "shall" by adding the word "***not***"; and

On page 137, lines 3 and 4, by deleting all new language, and by removing all brackets and strikethroughs; and

On page 137, line 8, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 137, line 12, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 137, line 20, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 138, line 10, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 138, line 18, by deleting the new language "***No***" and inserting in lieu thereof the word "***A***" and after the word "***shall***" by adding the word "***not***"; and

On page 139, line 16, by deleting "***members***" and inserting in lieu thereof "***member***" and by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 139, lines 17 through 19, by deleting all the new language after "***System shall***" on line 17 through line 19 and inserting in lieu thereof "***serve a three (3) year term and until a successor is***"; and

On page 139, line 20, by deleting "***representatives***" and inserting in lieu thereof "***representative***", and by deleting "***of each branch***"; and

On page 139, line 21, by deleting "***members***" inserting in lieu thereof "***member***"; and

On page 139, lines 26 and 27, by deleting "***These two (2) members***" on line 26 and by deleting line 27 in its entirety; and

On page 140, line 1, by deleting line 1 in its entirety; and

On page 140, line 13, by deleting "***members***" and inserting in lieu thereof "***member***" and by deleting "***Community and***"; and

On page 140, line 14, by deleting "***College***" and inserting in lieu thereof the word "***Institution***"; and

On page 140, line 16, by deleting "***They***" and inserting in lieu thereof "***The person***"; and

On page 140, line 17, by deleting "***their respective branch institutions***" and inserting in lieu thereof "***the system***"; and

On page 140, lines 18 through 22, by deleting the new language beginning with "***One (1)***" on line 18 and continuing through "***member.***" on line 22, and by inserting in lieu thereof "***The member shall serve a three (3) year term and until a successor is named.***"; and

On page 140, line 23, by deleting "***members***" and inserting in lieu thereof "***member***" and by deleting "***of each branch***"; and

On page 141, line 12, by deleting "***Two (2)***" and inserting in lieu thereof "***One (1)***", and by deleting "***members***" and inserting in lieu thereof "***member***"; and

On page 141, line 13, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 141, lines 13 through 15, by deleting the sentence of new language beginning with "***One (1)***" and ending with "***technical institutions.***" on line 15; and

On page 141, line 15, by deleting "***members***" and inserting in lieu thereof "***member***"; and

On page 141, line 16, by deleting "***members***" and inserting in lieu thereof "***member***", and by inserting "***a***" after "***serve***"; and

On page 141, line 17, by deleting "***terms***" and inserting in lieu thereof "***term***"; and

On page 141, lines 20 and 21, by deleting the sentence of new language beginning with "***The two (2)***" and ending with "***vote by each member.***" on line 21; and

On page 142, line 2, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 142, lines 18 and 19, by deleting "***Community and Technical College System***" and inserting in lieu thereof the words "***Technical Institution System***", and by placing opening and closing brackets and striking through the word "no" and inserting "***a***" after the comma on line 19; and

On page 142, line 20, after "shall", by inserting "***not***"; and

On page 143, lines 6 and 7, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 144, line 1, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 144, line 4, by deleting the period "***.***" after the word "***system***"; and

On page 144, lines 4 through 6, by deleting the sentence of new language beginning with "***The guidelines***" and ending with "***for the community colleges***" on line 6; and

On page 144, line 8, by deleting "***chancellors of the branches and***"; and

On page 144, by deleting lines 12 and 13 in their entirety; and

On page 144, line 14, by deleting "***The board of regents shall assure***" and inserting in lieu thereof the letter and word "***(d) Assure***"; and

On page 144, lines 19 and 20, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 145, line 12, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 145, line 17, by inserting the word "*A*" after the number "(2)" and placing opening and closing brackets around and striking through the word "No"; and

On page 145, line 17, after the first "shall", by inserting the word "***not***"; and

On page 145, line 17, after the period "." by inserting the word "*A*" and placing opening and closing brackets around and striking through the second word "No"; and

On page 145, line 17, after the second word "shall" by inserting the word "***not***"; and

On page 145, lines 20 and 21, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 146, line 12, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 146, line 15, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 146, line 21, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***" and by placing opening and closing brackets around and striking through the word "such"; and

On page 146, line 22, by placing an opening and closing bracket around and striking through the words "as will be", and by placing an opening and closing bracket around and striking through the word "incidental"; and

On page 146, line 23, by placing opening and closing brackets around and striking through the words "as are"; and

On page 146, line 24, by placing opening and closing brackets around and striking through the word "No" and by capitalizing the initial letter in the word "money"; and

On page 146, line 25, after the word "shall", by inserting the word "***not***"; and

Beginning on page 149, line 5, and ending on page 156, line 21, by deleting Sections 110, 111, 112, 113, 114, 115, 116, and 117 in their entirety and by renumbering subsequent sections accordingly; and

On page 159, line 13, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 167, line 3, by deleting "*No*" and inserting in lieu thereof "***An***" and after "***shall***" by inserting the word "***not***"; and

On page 177, lines 14 and 15, by deleting the words "***Section 110 of this Act,***"; and

On page 185, line 24, by deleting "***Community and Technical College***" and inserting in lieu thereof "***Technical Institution***"; and

On page 189, lines 18 through 27, by deleting Section 145 in its entirety and renumbering subsequent sections accordingly; and

On page 190, line 6, by deleting "***chancellor for***" and inserting in lieu thereof the words "***president of***"; and

On page 190, lines 6 and 7, by deleting "***Technical Institutions' Branch in the Kentucky Community and Technical College***" and inserting in lieu thereof the words "***Kentucky Technical Institution***"; and

On page 191, by deleting lines 14 and 15 in their entirety; and

On page 191, line 18, by deleting "Community and Technical College" and inserting in lieu thereof "Technical Institution"; and

On page 191, lines 19 and 20, by deleting "current Chancellor of the University of Kentucky Community College, the"; and

On page 191, line 21, by deleting "each system" and inserting in lieu thereof "the department"; and

On page 192, by deleting line 1 in its entirety; and

On page 192, line 2, by deleting "System"; and

On page 192, line 3, by deleting "systems" and inserting in lieu thereof "system"; and

On page 192, line 6, after the word "Revenue" by inserting a comma; and

On page 192, lines 13 and 14, by deleting "Community and Technical College" and inserting in lieu thereof "Technical Institution";

On page 192, line 15, by deleting "Community and Technical College" and inserting in lieu thereof "Technical Institution"; and

On page 3, line 8, by deleting "*72*" and inserting in lieu thereof "*70*"; and

On page 9, line 14, by deleting "*73*" and inserting in lieu thereof "*71*"; and

On page 11, line 6, by deleting "***83***" and inserting in lieu thereof "***81***"; and
On page 22, line 8, by deleting "***67***" and inserting in lieu thereof "***65***"; and
On page 22, line 9, by deleting "***36***" and inserting in lieu thereof "***35***"; and
On page 42, line 7, by deleting "***18***" and inserting in lieu thereof "***19***"; and
On page 70, line 13, by deleting "***18***" and inserting in lieu thereof "***19***"; and
On page 111, line 1, by deleting "***70***" and inserting in lieu thereof "***68***"; and
On page 111, line 10, by deleting "***70***" and inserting in lieu thereof "***68***"; and
On page 114, line 14, by deleting "***83***" and inserting in lieu thereof "***81***"; and
On page 120, line 9, by deleting "***65***" and inserting in lieu thereof "***63***"; and
On page 130, line 3, by deleting "***73***" and inserting in lieu thereof "***71***"; and
On page 133, line 1, by deleting "***139***" and inserting in lieu thereof "***129***"; and
On page 138, line 3, by deleting "***70***" and inserting in lieu thereof "***68***"; and
On page 141, line 24, by deleting "***73***" and inserting in lieu thereof "***71***"; and
On page 147, line 2, by deleting "***139***", and inserting in lieu thereof "***129***"; and
On page 147, line 4 by deleting "***139***" and inserting in lieu thereof "***129***"; and
On page 147, line 13, by deleting "***139***" and inserting in lieu thereof "***129***"; and
On page 166, line 25, by deleting "***73***" and inserting in lieu thereof "***71***".

Floor Amendment No. 63 to the Committee Substitute No. 2 to **HB 1**, by Representative Ford:

On page 155, line 22 after "members," by inserting "***four (4)***" and on page 155, line 22 by bracketing and striking through "seven (7)"; and

On page 155, line 23 after "Governor" by inserting the following: "***and three (3) of whom shall be appointed by the county judge/executive of the county in which the community college is located***".

Floor Amendment No. 64 to the Committee Substitute No. 2 to **HB 1**, by Representative Ford:

On page 155, line 22 after "members," by inserting "***four (4)***" and on page 155, line 22 by bracketing and striking through "seven (7)"; and

On page 155, line 23 after "Governor" by inserting the following: "***and three (3) of whom shall be appointed by the county judge/executive of the county in which the community college is located***"; and

On page 156, line 1 after "~~years]~~." by inserting the following "***The Governor and the county judge/executive shall make the appointments to reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration.***"

Floor Amendment No. 65 to the Committee Substitute No. 2 to **HB 1**, by Representative Ford:

On page 156, line 1 after "~~years]~~." by inserting the following "***All appointed members shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration.***".

Floor Amendment No. 66 to the Committee Substitute No. 2 to **HB 1**, by Representative Yonts:

On page 27, at the beginning of line 26, by inserting "***(1)***"; and

On page 28, between lines 4 and 5, insert the following:

"***(2) By December 31, 1998, the Council on Postsecondary Education shall establish rules and procedures to assure that all courses shall be universally transferable:***

(a) From programs within any technical institution to all other technical institutions, if there is a related program to which a student wishes to transfer;

(b) From programs within any technical institution to all community colleges and universities, if there is a related program to which a student wishes to transfer;

(c) From programs within any community college to all other community colleges, if there is a related program

to which a student wishes to transfer;

(d) From programs within any community college to all universities, if there is a related program to which a student wishes to transfer; and

(e) From programs within any university to all other universities, if there is a related program to which a student wishes to transfer.".

Floor Amendment No. 67 to the Committee Substitute No. 2 to **HB 1**, by Representative Stein:

On page 129, after "programs" on line 15 by removing the brackets and strikethroughs in lines 15 through 20.

Floor Amendment No. 68 to the Committee Substitute No. 2 to **HB 1**, by Representative Callahan:

On page 9, line 5 after "*levels.*" by inserting "*Notwithstanding the provisions of KRS 11A.040, any person employed by the Council on Higher Education prior to the effective date of this Act may accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and may carry out the employment duties assigned by that entity, organization, or institution.*"; and

On page 17, line 10 before the word "*accredited*", by inserting the word "*regionally*"; and

On page 17, line 26, after the word "*postsecondary*", by inserting the word "*regionally*"; and

On page 25, between lines 10 and 11, insert the following:

"*(7) A regular full-time faculty member or staff person may, with prior administrative approval, take the maximum number of tuition-free credit hours per term or year at any state-supported postsecondary institution under the institution's policy governing the number of tuition-free credit hours per term or year permitted for internal faculty on the effective date of this Act.*"; and

On page 25, line 11, by changing "*(7)*" to "*(8)*"; and

On page 107, line 15, after "reflect", by inserting "*equal gender representation to the extent possible and*"; and

On page 107, line 16 after "of" the first time it appears on that line by inserting "*the two (2) leading political parties of the Commonwealth based on the state's voter registration, and assure that appointments reflect*"; and

On page 111, line 12, after "*representation,*" by inserting "*assure equal gender representation to the extent possible,*"; and

On page 111, line 17, after "*than*", by changing "*two (2)*" to "*three (3)*"; and

On page 118, on line 19, after the word "*nature.*" by inserting the following:

"*Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program.*"; and

On page 120, Line 8 by deleting the first use of the word "*the*"; and

On Page 120, Line 8 by deleting the words, "*for teacher certification*"; and

On page 138, line 4, after "*than*", by changing "*two (2)*" to "*three (3)*"; and

On page 138, line 7, after "*serve.*", by adding "*The Governor shall assure that the board has equal gender representation to the extent possible.*"; and

On page 151, line 24 after "*Education.*" by inserting "*A graduate of a program within three (3) years of the program becoming an accredited technical degree program shall receive all or partial credit toward the degree, based on criteria established by the institution and approved by the board of regents.*"; and

On page 164, line 6, by removing the brackets and strikethroughs from the word "~~[nonprofit]~~".

Recess

Representative Stumbo moved that the House recess until 6:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 69 to the Committee Substitute No. 2 to **HB 1**, by Representative J. Arnold:

On page 15, line 26, after "***Any***", by inserting "***not-for-profit private or public***".

Floor Amendment No. 70 to the Committee Substitute No. 2 to **HB 1**, by Representative J. Arnold:

On page 118, line 14, by deleting "***technical,***" and bracketing and striking through "associate," and deleting "***,***" after "degree" and removing the brackets and strikethroughs around "or"; and

On page 118, line 15 by bracketing and striking through "certificate" and deleting "***, or diploma***"; and

On page 129, lines 5 and 6 by bracketing and striking through ", associate and" ;and

On page 129, line 6 after "instruction" by inserting "***and associate degree programs with approval of the board of regents for the Kentucky Community and Technical College System***"; and

On page 144, line 17, by deleting the period "***.***" and by inserting a "***; and***"; and

On page 144, between lines 17 and 18 by inserting:

"***(e) Review, evaluate, and approve certificate, diploma, and associate degree programs offered in all state-supported postsecondary institutions.***"; and

On page 152, line 19 after "***Green***" by inserting "***; however, programs shall be approved by the board of regents for the Kentucky Community and Technical College System***"; and

On page 152, lines 21 and 22 after "***System***" by deleting "***with approval of the Council on Postsecondary Education***";

On page 165, lines 26 and 27 after "Education," by bracketing and striking through "associate and" and after "instruction" on line 27 by inserting "***and associate degree programs of instruction with approval of the board of regents for the Kentucky Community and Technical College System***"; and

On page 166, line 10 after "chapter." by inserting "***Programs shall be reviewed and approved by the board of regents for the Kentucky Community and Technical College System.***".

Floor Amendment No. 71 to the Committee Substitute No. 2 to **HB 1**, by Representative Stumbo:

On page 151, line 14, after "***(4)***" by inserting the following: "***If the regional accrediting agency for the community colleges determines that the present organizational structure of the Kentucky Community and Technical College System and its board of regents does not meet the requirements for granting degrees by the University of Kentucky board of trustees, the Kentucky Community and Technical College board of regents shall take the corrective actions as necessary to alleviate the problem, even if that means transfer of authority back to the board of trustees.***

(5)"; and

On page 151, line 17, by changing "***(5)***" to "***(6)***"; and

On page 151, line 22, by changing "***(6)***" to "***(7)***".

Floor Amendment No. 72 to the Committee Substitute No. 2 to **HB 1**, by Representative Riner:

On page 1, line 8, by deleting "***and***"; and

On page 1, line 13, by deleting the period "***.***" and inserting in lieu thereof "***; and***"; and

On page 1 between lines 13 and 14, by inserting the following:

"***(c) The positive advancement of the welfare of the citizens of the Commonwealth through the transmission of knowledge can only be achieved by the incorporation of ethical standards, the historic American moral principles promoted by the nations' Founding Fathers into Kentucky public instruction, state educational training, and personal development of its teachers, students, and people, and affirms President George Washington's statement in his September 19, 1796, farewell address: "Of all the dispositions and habit which lead to political prosperity, Religion and morality are indispensable.***"

Floor Amendment No. 73 to the Committee Substitute No. 2 to **HB 1**, by Representative Riner:

On page 2, between lines 20 and 21, by inserting the following:

"***(6) A philosophically diverse board of regents should be established for the postsecondary institutions and the***

board of trustees for the University of Louisville and the University of Kentucky, committed to providing students with different scholarly viewpoints when hiring, promoting, and granting tenure to faculty members in particular fields of study, thus becoming the national leader in promoting an unbiased, objective search for truth and promoting true academic freedom, while prohibiting censorship, compulsion, and the imposition of any "politically correct" requirements which interfere with the free expression of ideas and obstruct the open marketplace for competing viewpoints and ideas."

Floor Amendment No. 74 to the Committee Substitute No. 2 to **HB 1**, by Representative Riner:

On page 2, line 7, by deleting "and"; and

On page 2, line 10, by deleting the underlined period and inserting ";" in lieu thereof; and

On page 2, between lines 10 and 11, by inserting the following:

"***(g) No institution of postsecondary education nor its officers or personnel shall allow the direct or indirect use of its property, staff, or resources to censor ideas of speech because of religious content or to promote bigotry against or hostility toward religion or traditional American morality; nor shall there be any promotion of abortion, immorality, or the acceptance of homosexuality as a normal or healthy lifestyle."***

Floor Amendment No. 75 to the Committee Substitute No. 2 to **HB 1**, by Representative Lovell:

On page 129, lines 15 through 20, after "programs", by removing the brackets and strike throughs on lines 15 through 20.

Floor Amendment No. 76 to the Committee Substitute No. 2 to **HB 1**, by Representative Lovell:

On page 18, line 23, after "***to***", by inserting "***develop, deliver,***"; and

On page 18, line 25, after the period "***.***", by deleting "***The***"; and

On page 18, by deleting lines 26 through 27 in their entirety.

Recess

Representative Barrows moved that the House recess until 8:00 p.m.. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 77 to the Committee Substitute No. 2 to **HB 1**, by Representative Callahan:

On page 24, line 1, after "***College***." by deleting "***The transfer of funds shall include funds***", and inserting "***Funds***"; and

On page 24, line 3, after "***colleges***", by inserting "***may, at the discretion of the local community college, be managed by the University of Kentucky or the local community college***"; and

On page 129, line 15, by removing the brackets and strike throughs from "~~[and shall be the~~"; inserting "***primary***" after "the"; placing opening and closing brackets around "~~only~~"; and removing the remaining strike throughs; and

On page 129, lines 16 through 20, by removing the strike throughs and closing bracket; and

On page 129, line 20, by inserting "***Nothing contained in this subsection shall limit the authority of the Council on Postsecondary Education to establish instructional programs that are consistent with the strategic agenda for postsecondary education. The Council on Postsecondary Education shall have the final authority to determine the compliance of institutions with this subsection including the coordination of the offering of statewide service programs.***"

On page 155, line 1, by deleting "***Select and recommend***", and by inserting "***Recommend in rank order***"; and

On page 155, line 3, after "***shall***", by inserting "***have the authority to***".

Floor Amendment No. 78 to the Committee Substitute No. 2 to **HB 1**, by Representative Callahan:

On page 3, lines 22 through 24, by deleting after "***System,***" on line 22 the following: "***formerly administered by the board of trustees of the University of Kentucky. This branch does not include***" and inserting in lieu thereof "***with the exception of***"; and

On page 3, lines 24 and 25, by deleting after "***College***" on line 24 the following: "***, which shall be administered by the board of trustees of the University of Kentucky***"; and

On page 19, line 6, after "***(1)***" and before "***The***", by inserting the following:

"***The president of the Kentucky Community and Technical College System shall be selected and employed by the board of regents of the Kentucky Community and Technical College System from a list of three (3) candidates, recommended by a six (6) member search committee. The search committee shall be appointed by the board of trustees of the University of Kentucky and shall be selected as follows:***

(a) Two (2) members shall be selected from the four (4) members of the board of regents who were recommended by the board of trustees and appointed by the Governor;

(b) Two (2) members shall be selected from the four (4) members of the board of regents who were recommended by the Governor's Postsecondary Education Nominating Committee and appointed by the Governor;

(c) One (1) member shall be the student or faculty or nonteaching personnel member of the board of regents representing the technical institutions; and

(d) One (1) member shall be the student or faculty or nonteaching personnel member of the board of regents representing the community colleges.

If the board of regents so chooses, it may reject the first list of names and direct the search committee to submit a list of three (3) additional names from which it may select a president. The board shall repeat this process until it finds a satisfactory person to appoint as president of the system.

(2) Upon the recommendation of"; and by lowercasing the word "***The***" on page 19, line 6; and

On page 19, line 6, after "***System***" by inserting the following: "***, the board of regents of the Kentucky Community and Technical College System***"; and

On page 19, line 7, by deleting the words, "***Colleges' Branch***" and inserting in lieu thereof the following: "***College System***"; and

On page 19, lines 9 and 10, by deleting "***, formerly governed by the University of Kentucky board of trustees,***"; and

On page 19, line 10, after "***shall***" by inserting "***continue to***"; and

On page 19, line 11, by deleting the words, "***Colleges' Branch***" and inserting in lieu thereof the following: "***College System, at the pleasure of the board of regents of the Kentucky Community and Technical College System***"; and

On page 19, line 12, by changing "***(2)***" to "***(3)***"; and

On page 19, line 14, by deleting the words, "***Colleges' Branch***" and inserting in lieu thereof the following: "***College System***"; and

On page 19, line 18, by changing "***(3)***" to "***(4)***"; and

On page 19, line 20, by changing "***(4)***" to "***(5)***"; and

On page 20, line 13, by changing "***(5)***" to "***(6)***"; and

On page 23, by deleting all new language on lines 8 through 24 in its entirety and inserting in lieu thereof the following:

"***(1) Effective July 1, 1998, the board of trustees of the University of Kentucky shall delegate to the board of regents of the Kentucky Community and Technical College System the management responsibilities for the University of Kentucky Community College System, except for the Lexington Community College. Responsibilities shall include, but not be limited to, management of facilities and grounds, personnel, programs, financial and accounting services, and support services. In this capacity, the board shall receive and disburse funds and handle other financial matters. The board of regents, in exercising its personnel management responsibilities, shall establish the operating policies and procedures for the University of Kentucky employees in the community colleges. The board of regents shall have the right to appoint and dismiss personnel and to set the compensation for the employees. The president and board of regents of the Kentucky Community and Technical College System shall have jurisdiction over the use and distribution of the resources to operate the system effectively and efficiently.***"; and

On page 23, lines 25 through 27 by deleting all new language in its entirety; and

On page 24, line 1 by deleting "***College.***" and inserting in lieu thereof the following:

"***(2) All funds that are appropriated to the University of Kentucky Community College System or funds that are allocated in the University of Kentucky budget for administering the community college system, except for the Lexington Community College, shall be transferred and allotted to the board of regents for the benefit of the University of Kentucky Community College System.***"; and

On page 24, line 4, by deleting the words, "***colleges branch***" and inserting in lieu thereof "***college system***"; and

On page 24, lines 9 through 13, beginning after "***(3)***" by deleting all new language through line 13 and inserting in lieu thereof the following: "***Employees in the University of Kentucky Community College System as of June 30, 1998, shall be governed by the University of Kentucky administrative regulations as of June 30, 1998, and any subsequent changes made by the university, except that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply:***"; and

On page 24, line 15, after "***shall be***" by deleting "***transferred with***" and inserting in lieu thereof the following: "***retained by***"; and

On page 24, line 16, after "***shall***" by deleting "***transfer***" and inserting in lieu thereof the word "***retain***" and on line 16 after "***tenure.***" by deleting "***Transferred***" and capitalizing "***Employees***"; and

On page 24, line 20, after "***shall***" by deleting "***transfer into the new system at***" and inserting in lieu thereof the word "***maintain***"; and

On page 24, lines 22 through 24 by deleting all language after "***(d)***" and inserting in lieu thereof the following: "***All employees hired as of June 30, 1998, shall be provided the same benefit package available for other University of Kentucky employees as it may be modified by the University of Kentucky for all employees.***"; and

On page 24, line 25, by deleting at the beginning of the sentence "***A transferred employee***" and inserting in lieu thereof the following: "***A person employed as of June 30, 1998, in a University of Kentucky Community College***" and on page 24, lines 26 and 27 by deleting "***in lieu of the existing rules under which the employee transferred***"; and

On page 25, by deleting all language on lines 11 through 17 and inserting in lieu thereof the following:

"***(7) Students enrolled in the University of Kentucky Community College System shall have all of the responsibilities, privileges, and rights accorded to University of Kentucky Community College System students as of July 1, 1998. The privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award Contest, and the University of Kentucky scholarship programs.***"; and

On page 26, line 18, by adding after "***to the***" the following: "***board of trustees of the University of Kentucky, the***"; and

On page 26, line 19, by inserting an underlined comma after "***Education***" and by deleting "***to***" before "***the Strategic***"; and

On page 27, beginning on line 12, by deleting all new language through "***services.***" on line 19 and inserting in lieu thereof the following: "***The Kentucky Community and Technical College System shall reimburse the University of Kentucky at a reasonable cost for any services provided to the system. The services shall include, but not be limited to, library services, processing scholarships and student loans, and all other financial aid services. The board may also contract for services from other providers.***"; and

On page 44, line 16, by deleting the word "***and***" after "University,"; and

On page 44, line 16, after the word "***System***" and before the semicolon (;) by adding the following language "***for the Technical Institutions' Branch, and the University of Kentucky for the University of Kentucky Community College System***"; and

On page 144, by deleting lines 3 through 11 in their entirety and inserting in lieu thereof the following:

"***(a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the Technical Institutions' Branch and the University of Kentucky Community College System. The guidelines pertaining to community colleges shall define the processes for review and approval by the boards of directors for the community colleges;***

(b) Adopt a biennial budget request for each branch of the Kentucky Community and Technical College System upon the recommendation of the chancellor for the respective branch and the president of the system.

1. The board of regents shall submit the biennial budget request for the Technical Institutions' Branch to the Council on Postsecondary Education for its action.

2. The board of regents shall transmit the biennial budget request for the University of Kentucky Community College System to the board of trustees of the University of Kentucky for consideration. The board of trustees shall review the biennial budget request for the University of Kentucky Community College System and shall transmit the biennial budget request for the University of Kentucky Community College System, along with recommendations to the council for its action.

3. The biennial budget request for the University of Kentucky, adopted by the board of trustees, shall identify the amount of funds by source and related purpose in the biennial budget request for administering the University of Kentucky Community College System except for the Lexington Community College.

4. All funds that are appropriated to the University of Kentucky for administering the Community

College System, except for the Lexington Community College, shall be transferred and allotted to the board of regents.

(c) Adopt an allocation process for distributing the funds appropriated to the Technical Institutions' Branch and the University of Kentucky Community College System by the General Assembly to the institutions within the system; and"; and

Beginning on page 150, line 16, and continuing through page 151, line 13, by deleting the existing text and substituting the following in lieu thereof:

"*(3) Students attending the University of Kentucky Community College System under the administration of the board of regents for the Kentucky Community and Technical College System may pursue four (4) kinds of degree programs:*

(a) Associate degree programs approved by the board of trustees as of July 1, 1998. These programs shall be periodically reviewed by a process established by the board of trustees of the University of Kentucky. A report shall be forwarded to the chancellor of the University of Kentucky Community College System, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board of trustees may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The board of trustees of the University of Kentucky shall confer degrees and award diplomas for these programs;

(b) New associate degree programs to be awarded in the name of the University of Kentucky. These degree programs shall be reviewed and approved by the board of regents prior to submission to the University of Kentucky board of trustees for approval. The programs shall be offered only after the approval of the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for these programs;

(c) Associate degree programs developed by the Kentucky Community and Technical College System, approved by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for the approved programs; and

(d) Joint degree programs developed between the University of Kentucky Community College System and the Technical Institutions' Branch or other institutions."; and

On page 151, by deleting all of the language on lines 17 through 21 and inserting in lieu thereof the following:

"*(5) The University of Kentucky Community College faculty senate shall have the primary responsibility for determining academic policy and curricula development that shall be recommended through the chancellor to the president of the Kentucky Community and Technical College System and to the board of regents for approval.*"; and

On page 184, between lines 26 and 27, by inserting the following:

"*(13) The acquisition and disposition of real property for the University of Kentucky Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval. The Kentucky Community and Technical College System board of regents may appeal an action of the University of Kentucky board of trustees under this subsection to the Council on Postsecondary Education, which shall retain final authority to review and approve all capital construction projects and real property acquisitions covered under KRS 45.750(1)(f).*".

Floor Amendment No. 79 to the Committee Substitute No. 2 to **HB 1**, by Representative Barrows:

On page 135, after line 27 by inserting the following:

"*(4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall conform to the requirements of subtitle 32 of KRS Chapter 304 and shall be exempt from conformity with subtitle 17A of KRS Chapter 304.*".

Floor Amendment No. 80 to the Committee Substitute No. 2 to **HB 1**, by Representative Palumbo:

On page 20, between lines 13 and 14, by inserting the following:

"*(6) The chancellor of the Community Colleges' Branch and the board of regents of the Kentucky Community and Technical College System shall adopt budget and personnel policies which provide for maximum flexibility and autonomy of the respective community colleges in managing the resources available. The chancellor and the board shall provide for significant involvement of the individual community college*

boards of directors and presidents in the operation of the system and the colleges."

On page 155, by deleting all underlined language on lines 1 through 17 and inserting in lieu thereof the following:

"***(a) Participate in the selection and evaluation of the community college president;***

(b) Assist the community college president in the development of the college's strategic plan and budget priorities;

(c) Participate with the community college president in the recommendation of an annual plan including budget priorities to the chancellor;

(d) Monitor the strategic plan and annual budget; and

(e) Consult with the chancellor of the Community Colleges' Branch and the board of regents of the Kentucky Community and Technical College System regarding the college's needs.".

Floor Amendment No. 81 to the Committee Substitute No. 2 to **HB 1**, by Representative Palumbo:

On page 24, line 1 after "***College.***" by deleting the following: "***The transfer of funds shall include funds held in escrow, invested funds***" and inserting the following in lieu thereof:

"***All funds held in escrow, all invested funds solely for the purpose of the community colleges, and all bequests and private funds specifically earmarked for the community colleges that are held in the University of Kentucky accounts shall continue to be managed and invested by the University of Kentucky and shall be used exclusively for the community college designated to benefit from the funds. Foundation funds and funds***"; and

On page 24, lines 2 through 5, by deleting the lines in their entirety.

Floor Amendment No. 82 to the Committee Substitute No. 2 to **HB 1**, by Representative Palumbo:

On page 118, line 14, by deleting "***technical,***" and bracketing and striking through "associate," and deleting "***,***" after "degree" ; and

On page 118, line 15 by bracketing and striking through "certificate" and deleting "***, or diploma***"; and

On page 129, lines 5 and 6 by bracketing and striking through ", associate and" ;and

On page 129, line 6 after "instruction" by inserting "***and associate degree programs with approval of the board of regents for the Kentucky Community and Technical College System***"; and

On page 144, line 11, delete "***and***"; and

On page 144, line 17, by deleting the period "***.***" and by inserting a "***; and***"; and

On page 144, between lines 17 and 18 by inserting:

"***(e) Review, evaluate, and approve diploma, and associate degree programs offered in all state-supported postsecondary institutions.***"; and

On page 152, line 19 after "***Green***" by inserting "***; however, programs shall be approved by the board of regents for the Kentucky Community and Technical College System***"; and

On page 152, lines 21 and 22 after "***System***" by deleting "***with approval of the Council on Postsecondary Education***"; and

On page 154, line 22 after "***System***" by inserting "***; however, programs shall be approved by the board of regents for the Kentucky Community and Technical College System***"

On page 165, lines 26 and 27 after "Education," by bracketing and striking through "associate and" and after "instruction" on line 27 by inserting "***and associate degree programs of instruction with approval of the board of regents for the Kentucky Community and Technical College System***"; and

On page 166, line 10 after "chapter." by inserting "***Programs shall be reviewed and approved by the board of regents for the Kentucky Community and Technical College System.***".

Floor Amendment No. 83 to the Committee Substitute No. 2 to **HB 1**, by Representative Palumbo:

On page 129, line 23, after ""KRS Chapter 164." by inserting the following:

"***The board of trustees of the University of Kentucky shall provide programs of a community college nature at Lexington Community College at Lexington comparable to those community colleges that make up the Kentucky Community and Technical College System. Lexington Community College shall maintain its comprehensive mission, and*** *the University of Kentucky shall continue to receive catch-up funding comparable to that to be allocated through the Kentucky Community and Technical College System to the other thirteen (13) community colleges, to bring its funding to the benchmark funding levels. Catch-up funds received by the University of Kentucky shall be earmarked for the exclusive use of Lexington Community College. Lexington Community College shall be eligible for funds available to the University of Kentucky Community College System as a part of the Kentucky Community and Technical College System, and which will enable Lexington Community College to accomplish its strategic objectives, including but not limited to program development, acquisition of technology, and professional development of faculty and staff. Funds received by the University of Kentucky for these purposes shall be earmarked for the exclusive use of Lexington Community College.*".

Floor Amendment No. 84 to the Committee Substitute No. 2 to **HB 1**, by Representative Palumbo:

On page 3, lines 22 through 24, by deleting after "*System,*" on line 22 the following: "*formerly administered by the board of trustees of the University of Kentucky. This branch does not include*" and inserting in lieu thereof "*with the exception of*"; and

On page 3, lines 24 and 25, by deleting after "*College*" on line 24 the following: "*, which shall be administered by the board of trustees of the University of Kentucky*"; and

On page 19, line 6, after "*(1)*" and before "*The*", by inserting the following:

"*The president of the Kentucky Community and Technical College System shall be selected and employed by the board of regents of the Kentucky Community and Technical College System from a list of three (3) candidates, recommended by a six (6) member search committee. The search committee shall be appointed by the board of trustees of the University of Kentucky and shall be selected as follows:*

(a) Two (2) members shall be selected from the four (4) members of the board of regents who were recommended by the board of trustees and appointed by the Governor;

(b) Two (2) members shall be selected from the four (4) members of the board of regents who were recommended by the Governor's Postsecondary Education Nominating Committee and appointed by the Governor;

(c) One (1) member shall be the student or faculty or nonteaching personnel member of the board of regents representing the technical institutions; and

(d) One (1) member shall be the student or faculty or nonteaching personnel member of the board of regents representing the community colleges.

If the board of regents so chooses, it may reject the first list of names and direct the search committee to submit a list of three (3) additional names from which it may select a president. The board shall repeat this process until it finds a satisfactory person to appoint as president of the system.

(2) Upon the recommendation of"; and by lowercasing the word "*The*" on page 19, line 6; and

On page 19, line 6, after "*System*" by inserting the following: "*, the board of regents of the Kentucky Community and Technical College System*"; and

On page 19, line 7, by deleting the words, "*Colleges' Branch*" and inserting in lieu thereof the following: "*College System*"; and

On page 19, lines 9 and 10, by deleting "*, formerly governed by the University of Kentucky board of trustees,*"; and

On page 19, line 10, after "*shall*" by inserting "*continue to*"; and

On page 19, line 11, by deleting the words, "*Colleges' Branch*" and inserting in lieu thereof the following: "*College System, at the pleasure of the president*"; and

On page 19, line 12, by changing "*(2)*" to "*(3)*"; and

On page 19, line 14, by deleting the words, "*Colleges' Branch*" and inserting in lieu thereof the following: "*College System*"; and

On page 19, line 18, by changing "*(3)*" to "*(4)*"; and

On page 19, line 20, by changing "*(4)*" to "*(5)*"; and

On page 20, line 13, by changing "*(5)*" to "*(6)*"; and

On page 23, by deleting all new language on lines 8 through 24 in its entirety and inserting in lieu thereof the following:

"*(1) Effective July 1, 1998, the board of trustees of the University of Kentucky shall delegate to the board of regents of the Kentucky Community and Technical College System the management responsibilities for the University of Kentucky Community College System, except for the Lexington Community College. Responsibilities shall include, but not be limited to, management of facilities and grounds, personnel, programs, financial and accounting services,* *and support services. In this capacity, the board shall receive and disburse funds and handle other financial matters. The board of regents, in exercising its personnel management responsibilities, shall establish the operating policies and procedures for the University of Kentucky employees in the community colleges. The board of regents shall have the right to appoint and dismiss personnel and to set the compensation for the employees. The president and board of regents of the Kentucky Community and Technical College System shall have jurisdiction over the use and distribution of the resources to operate the system effectively and efficiently.*"; and

On page 23, lines 25 through 27 by deleting all new language in its entirety; and

On page 24, line 1 by deleting "*College.*" and inserting in lieu thereof the following:

"*(2) All funds that are appropriated to the University of Kentucky Community College System or funds that are allocated in the University of Kentucky budget for administering the community college system, except for the Lexington Community College, shall be transferred and allotted to the board of regents for the benefit of the University of Kentucky Community College System.*"; and

On page 24, line 4, by deleting the words, "*colleges branch*" and inserting in lieu thereof "*college system*"; and

On page 24, lines 9 through 13, beginning after "*(3)*" by deleting all new language through line 13 and inserting in lieu thereof the following: "*Employees in the University of Kentucky Community College System as of June 30, 1998, shall be governed by the University of Kentucky administrative regulations as of June 30, 1998, and any subsequent changes made by the university, except that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply:*"; and

On page 24, line 15, after "*shall be*" by deleting "*transferred with*" and inserting in lieu thereof the following: "*retained by*"; and

On page 24, line 16, after "*shall*" by deleting "*transfer*" and inserting in lieu thereof the word "*retain*" and on line 16 after "*tenure.*" by deleting "*Transferred*" and capitalizing "*Employees*"; and

On page 24, line 20, after "*shall*" by deleting "*transfer into the new system at*" and inserting in lieu thereof the word "*maintain*"; and

On page 24, lines 22 through 24 by deleting all language after "*(d)*" and inserting in lieu thereof the following: "*All employees hired as of June 30, 1998, shall be provided the same benefit package available for other University of Kentucky employees as it may be modified by the University of Kentucky for all employees.*"; and

On page 24, line 25, by deleting at the beginning of the sentence "*A transferred employee*" and inserting in lieu thereof the following: "*A person employed as of June 30, 1998, in a University of Kentucky Community College*" and on page 24, lines 26 and 27 by deleting "*in lieu of the existing rules under which the employee transferred*"; and

On page 25, by deleting all language on lines 11 through 17 and inserting in lieu thereof the following:

"*(7) Students enrolled in the University of Kentucky Community College System shall have all of the responsibilities, privileges, and rights accorded to University of Kentucky Community College System students as of July 1, 1998. The privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award Contest, and the University of Kentucky scholarship programs.*"; and

On page 26, line 18, by adding after "*to the*" the following: "*board of trustees of the University of Kentucky, the*"; and

On page 26, line 19, by inserting an underlined comma after "*Education*" and by deleting "*to*" before "*the Strategic*"; and

On page 27, beginning on line 12, by deleting all new language through "*services.*" on line 19 and inserting in lieu thereof the following: "*The Kentucky Community and Technical College System shall reimburse the University of Kentucky at a reasonable cost for any services provided to the system. The services shall include, but not be limited to, library services, processing scholarships and student loans, and all other financial aid services. The board may also contract for services from other providers.*"; and

On page 44, line 16, by deleting the word "*and*" after "University*,*"; and

On page 44, line 16, after the word "*System*" and before the semicolon (;) by adding the following language "*for the Technical Institutions' Branch, and the University of Kentucky for the University of Kentucky Community College System*"; and

On page 144, by deleting lines 3 through 11 in their entirety and inserting in lieu thereof the following:

"*(a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the Technical Institutions' Branch and the University of Kentucky Community College System. The guidelines pertaining to community colleges shall define the processes for review and approval by the boards of directors for the community colleges;*

(b) Adopt a biennial budget request for each branch of the Kentucky Community and Technical College System

upon the recommendation of the chancellor for the respective branch and the president of the system.

1. The board of regents shall submit the biennial budget request for the Technical Institutions' Branch to the Council on Postsecondary Education for its action.

2. The board of regents shall transmit the biennial budget request for the University of Kentucky Community College System to the board of trustees of the University of Kentucky for consideration. The board of trustees shall review the biennial budget request for the University of Kentucky Community College System and shall transmit the biennial budget request for the University of Kentucky Community College System, along with recommendations to the council for its action.

3. The biennial budget request for the University of Kentucky, adopted by the board of trustees, shall identify the amount of funds by source and related purpose in the biennial budget request for administering the University of Kentucky Community College System except for the Lexington Community College.

4. All funds that are appropriated to the University of Kentucky for administering the Community College System, except for the Lexington Community College, shall be transferred and allotted to the board of regents.

(c) Adopt an allocation process for distributing the funds appropriated to the Technical Institutions' Branch and the University of Kentucky Community College System by the General Assembly to the institutions within the system; and"; and

Beginning on page 150, line 16, and continuing through page 151, line 13, by deleting the existing text and substituting the following in lieu thereof:

"*(3) Students attending the University of Kentucky Community College System under the administration of the board of regents for the Kentucky Community and Technical College System may pursue four (4) kinds of degree programs:*

(a) Associate degree programs approved by the board of trustees as of July 1, 1998. These programs shall be periodically reviewed by a process established by the board of trustees of the University of Kentucky. A report shall be forwarded to the chancellor of the University of Kentucky Community College System, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board of trustees may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The board of trustees of the University of Kentucky shall confer degrees and award diplomas for these programs;

(b) New associate degree programs to be awarded in the name of the University of Kentucky. These degree programs shall be reviewed and approved by the board of regents prior to submission to the University of Kentucky board of trustees for approval. The programs shall be offered only after the approval of the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for these programs;

(c) Associate degree programs developed by the Kentucky Community and Technical College System, approved by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for the approved programs; and

(d) Joint degree programs developed between the University of Kentucky Community College System and the Technical Institutions' Branch or other institutions."; and

On page 151, by deleting all of the language on lines 17 through 21 and inserting in lieu thereof the following:

"*(5) The University of Kentucky Community College faculty senate shall have the primary responsibility for determining academic policy and curricula development that shall be recommended through the chancellor to the president of the Kentucky Community and Technical College System and to the board of regents for approval.*"; and

On page 184, between lines 26 and 27, by inserting the following:

"*(13) The acquisition and disposition of real property for the University of Kentucky Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval. The Kentucky Community and Technical College System board of regents may appeal an action of the University of Kentucky board of trustees under this subsection to the Council on Postsecondary Education, which shall retain final authority to review and approve all capital construction projects and real property acquisitions covered under KRS 45.750(1)(f).*".

Announcements

The following meetings were announced:

Health and Welfare, 1:00 p.m., May 21, 1997

Banking and Insurance, Room 327, May 20, 1997

Adjournment

Representative L. Clark moved that the House adjourn until 12 noon, May 20, 1997.

The motion to adjourn until 12 noon, May 20, 1997 was adopted by voice vote.

TUESDAY, MAY 20, 1997

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Joe Adams, Chaplain Ministries, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of May 19, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 85 to the Committee Substitute No. 2 to **HB 1**, by Representative Rasche:

On page 153, line 2, after the "concurrence of the board", by inserting "***of trustees of the University of Kentucky***", and

On page 153, line 6, after "desirable" by inserting "***, provided that any agreement executed under this subsection shall be subject to the management of the Kentucky Community and Technical College System under the provisions of Section 19 of this Act***"; and

On page 153, beginning on line 6 and ending on line 10, by deleting new language.

Representative Palumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 23**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and honors Veronica Marie Duka Miss Kentucky, 1996. The entire membership of the House of Representatives is pleased to present this citation to Veronica Marie Duka, Miss Kentucky, 1996, in recognition of her many outstanding accomplishments while representing the Commonwealth of Kentucky. This young woman, who ranked in the top ten in the Miss America Pageant, traveled across this great state, visiting nearly 200 schools and speaking to over 98,000 students, carrying vital messages in an effort to educate children about the dangers of the underage use of tobacco and the importance of striving for academic excellence. She has worked diligently addressing issues designed to improve the quality of life through awareness of responsibility to self and to the community, and her Multicultural Education Through Heritage of Diversity Program is an exemplary example of the depth of her commitment to these issues. The House of Representatives joins with Representative Ruth Ann Palumbo in this commendation recognizing her outstanding service to the Bluegrass State. **Legislative Citation No. 23** was adopted without objection.

Representative Callahan moved that the rules be suspended to introduce guests. Agreed.

Representative G. Graham moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed. Representative G. Graham moved the adoption of the following **Legislative Citation No. 19**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to The Girls' Cross Country Team Western Hills High School on capturing the 1997 Cross Country State Championship. Whereas, these young women have reached the pinnacle of athletic achievement, and whereas each team member's diligence, talent and hard work have molded the Lady Wolverines into state champions, a title which only one team may rightly hold, therefore, The House of Representatives joins with Representative Gippy Graham in recognizing said members of this outstanding team for their achievements, as individuals and for the glory of their school, and wishes each young woman every success as she furthers her academic and athletic career. **Legislative Citation No. 19** was adopted without objection.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 20**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds your effort and offers its sincerest congratulations to Brian Crumbo Kentucky Coach of the Year, Girls' Cross Country. Your extraordinary leadership and instruction of the Western Hills High School Lady Wolverines have greatly helped to transform these fine young athletes into the

1997 State Cross Country Champions; therefore, this prestigious body is indeed pleased to pay tribute to you as an exemplary coach and role model. The House of Representatives joins with Representative Gippy Graham in honoring you on your many achievements and wishes you every success as you continue your coaching career. **Legislative Citation No. 20** was adopted without objection.

Representative D. Graham moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed. Representative D. Graham moved the adoption of the following **Legislative Citation No. 8**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Frankfort Elks Lodge #530 for its unique representation at the 1997 Elks National "Hoop Shoot". Whereas, over 4 million girls and boys ages 8-13 from all fifty states and the District of Columbia competed in this year's free-throw contest, and whereas, for the first time in the contest's twenty-five-year history, Frankfort Elks Lodge #530 sent two contestants to the National Finals in Springfield, Massachusetts, and whereas, out of 2,250 Elks Lodges nationwide, Frankfort's was the only lodge to produce two National Runners-up, therefore this prestigious body joins Representative Gippy Graham in honoring Frankfort Elks Lodge #530 for its total dedication to "Hoop Shoot" and for offering this activity as part of its drug awareness program for all girls and boys ages 8-13. **Legislative Citation No. 8** was adopted without objection.

Representative D. Graham moved the adoption of the following **Legislative Citation No. 11**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Matthew Martin Runner-up, National Finals 1997 Elks National "Hoop Shoot". Over 4 million girls and boys ages 8-13 from all fifty states and the District of Columbia competed in this year's free-throw contest. Matthew Martin, representing Frankfort Elks Lodge #530, went all the way from local and district competition in the 10-11-year-old Boys' Division to the Kentucky state finals, where he won the Jim Fuller "Hot Shot" award for hitting the highest number of shots through the first three levels of competition; from there he proceeded to the four-state regional finals in Paris, Tennessee, and culminated his journey by finishing second in the National Finals, Springfield, Massachusetts. As a consequence, this prestigious body joins Representative Drew Graham in honoring this young athlete for his stellar performance, which has brought esteem to family, community and friends. **Legislative Citation No. 11** was adopted without objection.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 9**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Jessica Pettus, Runner-up, National Finals 1997 Elks National "Hoop Shoot". Whereas, over 4 million girls and boys ages 8-13 from all fifty states and the District of Columbia competed in this year's free-throw contest, and whereas, Jessica Pettus won competitions all the way from local, district, and state finals in Frankfort, Kentucky, to the four-state regional finals in Paris, Tennessee; and whereas she ultimately finished second in the National Finals in Springfield, Massachusetts, against "shooters" from 11 other regions throughout the country, therefore, this prestigious body joins Representative Gippy Graham in honoring this young athlete, representing Frankfort Elks Lodge #530, for her stellar performance in the 12-13-year-old Girls' Division, which brought esteem to family, community and friends. **Legislative Citation No. 9** was adopted without objection.

Representative Lindsay moved the adoption of the following **Legislative Citation No. 10**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Krista Hatfield National Finalist 1997 Elks National "Hoop Shoot". Whereas, over 4 million girls and boys ages 8-13 from all fifty states and the District of Columbia competed in this year's free-throw contest, and whereas, Krista Hatfield won competitions all the way from local, district, and state finals in Frankfort, Kentucky, to the four-state regional finals in Paris, Tennessee; and whereas she ultimately competed strongly in Springfield, Massachusetts, against "shooters" from 11 other regions throughout the country, therefore, this prestigious body joins Representative Gross C. Lindsay in honoring this young athlete, representing Henderson Elks Lodge #206, for her stellar performance in the 8-9-year-old Girls' Division, which brought esteem to family, community and friends. **Legislative Citation No. 10** was adopted without objection.

Representative Stumbo moved that the rules be suspended to grant floor privileges to a former member, Kaye Bondurant. Agreed.

Representative Collins moved that Floor Amendment No. 24 to the Committee Substitute No. 2 to **HB 1** be withdrawn. Agreed.

Introduction of Resolutions

HR 15, by Representative Damron: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James G. "Jimmy" Tanner.

HR 16, by Representatives Richards and Thomas: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Basil W. Griffin, Jr.

Orders of the Day

HB 1, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the Journal reflect that Floor Amendment No. 17 to the Committee Substitute No. 2 to **HB 1** had been withdrawn.

Representative Stumbo moved that the Journal reflect that Floor Amendments No. 75, No. 42, No. 44 and No. 36 to the Committee Substitute No. 2 to **HB 1** be withdrawn.

Representative Callahan moved the adoption of the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 77 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Murgatroyd moved the adoption of Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Rasche moved the adoption of Floor Amendment No. 12 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 31 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 58 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Lee moved the adoption of Floor Amendment No. 22 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Collins moved the adoption of Floor Amendment No. 41 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 61 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 30 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 33 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Rasche moved the adoption of Floor Amendment No. 27 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 79 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 78 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Adkins moved the adoption of Floor Amendment No. 71 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Callahan moved that **HB 1**, by way of Committee Substitute No. 2 as amended, be passed.

Representative Gray moved the adoption of Floor Amendment No. 9 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 46**--J. Adams, R. Adams, Adkins, Anderson, J. Arnold, Bratcher, Brown, Bruce, D. D. Butler, L. Clark, P. Clark, Collins, Crenshaw, Deskins, DeWeese, Gee, Gooch, G. Graham, Gray, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Lile, Long, Maricle, Marzian, Mason, Miniard, Napier, Nesler, Polston, Ratliff, Reinhardt, Riggs, Riner, Stacy, Stein, Stewart, Turner, Vincent, Wayne, Yonts. **Nays 48**--Alexander, Allen, A. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Burch, Callahan, Cave, J. Clarke, Coleman, Colter, Cox, Crall, Crimm, Curd, Damron, Ford, Geveden, D. Graham, Hatcher, Haydon, Hogancamp, Kerr, Lee, Lovell, Marcotte, McKee, Moberly, Murgatroyd, Nunn, Palumbo, Pope, Rader, Rasche, Scott, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Walton, Weaver, Wilkey, Zimmerman. Floor Amendment No. 9 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Collins moved the adoption of Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 45**--Adkins, Alexander, Anderson, Bratcher, Brown, Bruce, De. Butler, L. Clark, P. Clark, Collins, Crenshaw, Damron, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Lile, Lindsay, Long, Maricle, Marzian, Mason, Napier, Nesler, Newsome, Polston, Ratliff, Riner, Stacy, Stein, Stewart, Stumbo, Turner, Vincent, Wayne, Worthington, Yonts. **Nays 51**--J. Adams, R. Adams, Allen, A. Arnold, J. Arnold, Ballard, Baugh, Brandstetter, Burch, Dw. Butler, Callahan, Cave, J. Clarke, Coleman, Cox, Crall, Crimm, Curd, Deskins, DeWeese, Ford, Geveden, Haydon, Hogancamp, Hoover, Kerr, Lee, Lovell, Marcotte, McKee, Miniard, Moberly, Murgatroyd, Nunn, Pope, Rader, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stine, Thomas, Treesh, Walton, Weaver, Wilkey, Zimmerman. Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Treesh moved the adoption of Floor Amendment No. 43 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Baugh moved the adoption of Floor Amendment No. 34 to the Committee Substitute No. 2 to **HB 1**.

Representative Callahan inquired if Floor Amendment No. 34 to the Committee Substitute No. 2 to **HB 1** was germane. The Speaker ruled that Floor Amendment No. 34 to the Committee Substitute No. 2 to **HB 1** was not germane.

Representative Mason moved the adoption of Floor Amendment No. 54 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 49**--J. Adams, Adkins, Alexander, Anderson, J. Arnold, Ballard, Brown, Bruce, Burch, Dw. Butler, P. Clark, Collins, Colter, Crall, Crenshaw, Curd, Damron, Deskins, DeWeese, D. Graham, G. Graham, Gray, Hatcher, Hoffman, Horlander, Jenkins, Johns, Jordan, Lindsay, Long, Lovell, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Ratliff, Riner, Simpson, Stacy, Stein, Stewart, Stumbo, Vincent, Wayne, Yonts, Zimmerman. **Nays 43**--R. Adams, A. Arnold, Barrows, Baugh, Bowling, Brandstetter, Bratcher, De. Butler, Callahan, Cave, L. Clark, J. Clarke, Coleman, Cox, Crimm, Ford, Geveden, Gooch, Haydon, Heleringer, Hogancamp, Hoover, Kerr, Lee, Marcotte, Marzian, McKee, Miniard, Moberly, Murgatroyd, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Sims, Stine, Thomas, Treesh, Walton, Weaver, Wilkey. Floor Amendment No. 54 to the Committee Substitute No. 2 was adopted.

Representative Brandstetter moved the adoption of Floor Amendment No. 13 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Treesh moved the adoption of Floor Amendment No. 23 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 24**--Allen, Baugh, Brandstetter, Dw. Butler, Cave, P. Clark, Cox, Crall, Crimm, Deskins, Ford, Hogancamp, Hoover, Lile, Marcotte, Maricle, Rader, Reinhardt, Stewart, Stine, Treesh, Vincent, Walton, Zimmerman. **Nays 71**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Bratcher, Brown, Bruce, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Curd, Damron, DeWeese, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marzian, Mason, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rasche, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Turner, Wayne, Weaver, Wilkey, Worthington, Yonts. Floor Amendment No. 23 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Anderson moved the adoption of Floor Amendment No. 29 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 13**--Allen, Anderson, Bratcher, Cave, P. Clark, Cox, Crall, Gee, Gray, Hogancamp, Palumbo, Rader, Stewart. **Nays 66**--J. Adams, R. Adams, Alexander, J. Arnold, Ballard, Baugh, Bowling, Brandstetter, Burch, De. Butler, Callahan, L. Clark, Coleman, Collins, Colter, Crenshaw, Crimm, Curd, Deskins, DeWeese, Geveden, G. Graham, Hatcher, Haydon, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Marcotte, Maricle, Marzian, McKee, Miniard, Moberly, Murgatroyd, Napier, Nunn, Polston, Pope, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. Floor Amendment No. 29 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Cave moved the adoption of Floor Amendment No. 59 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 32**--J. Adams, Allen, Anderson, Barrows, Baugh, Brandstetter, Dw. Butler, Cave, Cox, Damron, Deskins, DeWeese, Ford, Gee, D. Graham, Hoffman, Hogancamp, Hoover, Kerr, Maricle, Nesler, Palumbo, Pope, Rader, Ratliff, Reinhardt, Stewart, Stine, Stumbo, Turner, Vincent, Walton. **Nays 62**--R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Bowling, Bratcher, Brown, Burch, De. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Crenshaw, Crimm, Curd, Geveden, Gooch, G. Graham, Gray, Hatcher, Haydon, Heleringer, Horlander, Jenkins, Johns, Jordan, Lile, Lindsay, Long, Lovell, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Nunn, Polston, Rasche, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Thomas, Treesh, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. Floor Amendment No. 59 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Coleman moved the adoption of Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 1**.

President Pro Tempore L. Clark assumed the Chair. Speaker Richards resumed the Chair.

On the roll call on Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 1** the vote was **Yeas 26**--Alexander, Allen, A. Arnold, Baugh, Bowling, Brandstetter, Bruce, Cave, Coleman, Cox, Crall, Crimm, Ford, Gee, Geveden, Haydon, Hogancamp, Lovell, Moberly, Palumbo, Rader, Rasche, Stewart, Treesh, Weaver, Zimmerman. **Nays 69**--J. Adams, R. Adams, Adkins, Anderson, Ballard, Barrows, Bratcher, Brown, Burch, De. Butler, Dw. Butler, L. Clark, P. Clark, Collins, Colter, Crenshaw, Curd, Damron, Deskins, DeWeese, Gooch, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Murgatroyd, Napier, Nesler, Newsome, Nunn, Polston, Pope, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Stacy, Stein, Stine, Stumbo, Thomas, Turner, Vincent, Walton, Wayne, Wilkey, Worthington, Yonts. Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Damron moved the adoption of Floor Amendment No. 16 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Hoffman moved the adoption of Floor Amendment No. 18 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 46**--J. Adams, R. Adams, Adkins, Alexander, Anderson, Bowling, Bratcher, Brown, De. Butler, L. Clark, P. Clark, Collins, Crenshaw, DeWeese, Gooch, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Long, Mason, Miniard, Napier, Polston, Pope, Ratliff, Reinhardt, Riggs, Riner, Siler, Stacy, Stein, Stewart, Turner, Vincent, Wayne, Wilkey, Yonts. **Nays 49**--Allen, A. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bruce, Burch, Dw. Butler, Callahan, Cave, J. Clarke, Coleman, Cox, Crall, Crimm, Curd, Damron, Deskins, Ford, Geveden, Haydon, Hogancamp, Hoover, Kerr, Lindsay, Lovell, Marcotte, Marzian, McKee, Moberly, Murgatroyd, Newsome, Nunn, Palumbo, Rader, Rasche, Richards, Scott, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Walton, Weaver, Worthington, Zimmerman. Floor Amendment No. 18 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Damron moved the adoption of Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 1**. Rejected.

Representative Hogancamp moved the adoption of Floor Amendment No. 40 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 16**--Allen, Baugh, Dw. Butler, Cave, P. Clark, Cox, Crall, Ford, Gee, Gooch, Hogancamp, Marcotte, Reinhardt, Stewart, Turner, Walton. **Nays 73**--J. Adams, R. Adams, Adkins, Alexander, Ballard, Barrows, Bowling, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Collins, Colter, Crenshaw, Crimm, Curd, Damron, DeWeese, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Wayne, Weaver, Wilkey, Yonts, Zimmerman. Floor Amendment No. 40 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Riner moved the adoption of Floor Amendment No. 73 to the Committee Substitute No. 2 to **HB 1**.

Representative Marzian inquired if Floor Amendment No. 73 to the Committee Substitute No. 2 to **HB 1** was germane. The Speaker ruled that Floor Amendment No. 73 to the Committee Substitute No. 2 to **HB 1** was germane.

On the roll call on Floor Amendment No. 73 to the Committee Substitute No. 2 to **HB 1** the vote was **Yeas 51**--R. Adams, Adkins, Anderson, A. Arnold, Ballard, Baugh, Brandstetter, Bratcher, Bruce, Cave, P. Clark, Collins, Colter, Cox, Crall, Crimm, Damron, Deskins, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hogancamp, Hoover, Kerr, Lindsay, Marcotte, Maricle, Mason, Miniard, Napier, Nesler, Newsome, Palumbo, Pope, Ratliff, Reinhardt, Richards, Riner, Stewart, Stine, Stumbo, Thomas, Turner, Vincent, Walton, Yonts. **Nays 45**--J. Adams, Alexander, Allen, J. Arnold, Barrows, Bowling, Brown, Burch, De. Butler, Dw. Butler, Callahan, L. Clark, J. Clarke, Coleman, Crenshaw, Curd, DeWeese, Geveden, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Long, Lovell, Marzian, McKee, Moberly, Murgatroyd, Nunn, Polston, Rasche, Riggs, Scott, Siler, Simpson, Stacy, Stein, Treesh, Wayne, Weaver, Wilkey, Zimmerman. Floor Amendment No. 73 to the Committee Substitute No. 2 to **HB 1** was adopted.

Representative Riner moved the adoption of Floor Amendment No. 72 to the Committee Substitute No. 2 to **HB 1**.

On the roll call on Floor Amendment No. 72 to the Committee Substitute No. 2 to **HB 1** the vote was **Yeas 64**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Ballard, Baugh, Brandstetter, Bratcher, Bruce, Dw. Butler, Callahan, Cave, P. Clark, Collins, Cox, Crimm, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hogancamp, Hoover, Johns, Kerr, Lee, Lile, Long, Marcotte, Mason, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Ratliff, Reinhardt, Richards, Riner, Siler, Simpson, Stacy, Stewart, Stine, Stumbo, Treesh, Vincent, Walton, Yonts, Zimmerman. **Nays 19**--Barrows, Bowling, Brown, Burch, De. Butler, L. Clark, J. Clarke, Coleman, Geveden, Horlander, Jenkins, Jordan, Lindsay, Marzian, McKee, Rasche, Stein, Weaver, Wilkey. Floor Amendment No. 72 to the Committee Substitute No. 2 to **HB 1** was adopted.

Representative Lovell moved the adoption of Floor Amendment No. 76 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 46**--J. Adams, Adkins, Alexander, Anderson, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bruce, Dw. Butler, Cave, J. Clarke, Coleman, Cox, Crimm, Damron, Deskins, DeWeese, Gee, D. Graham, Hoffman, Hoover, Jenkins, Kerr, Long, Lovell, Maricle, Mason, Murgatroyd, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Stine, Stewart, Stumbo, Turner, Vincent, Walton. **Nays 47**--R. Adams, A. Arnold, Bowling, Bratcher, Burch, De. Butler, Callahan, L. Clark, P. Clark, Collins, Crall, Crenshaw, Curd, Geveden, Gooch, G. Graham, Gray, Hatcher, Haydon, Heleringer, Horlander, Johns, Jordan, Lee, Lile, Lindsay, Marcotte, Marzian, McKee, Miniard, Moberly, Napier, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. Floor Amendment No. 76 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Hogancamp moved the adoption of Floor Amendment No. 49 to the Committee Substitute No. 2 to **HB 1**.

On the roll call the vote was **Yeas 40**--Allen, Anderson, Baugh, Bratcher, Bruce, Dw. Butler, Cave, P. Clark, Cox, Crall, Damron, DeWeese, Ford, Gooch, D. Graham, Hatcher, Heleringer, Hogancamp, Hoover, Johns, Kerr, Lile, Marcotte, Maricle, Mason, Miniard, Napier, Newsome, Polston, Rader, Ratliff, Reinhardt, Riggs, Riner, Stewart, Stine, Stumbo, Treesh, Turner, Walton. **Nays 46**--J. Adams, R. Adams, Adkins, Alexander, Ballard, Bowling, Brown, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Colter, Crenshaw, Curd, Deskins, Geveden, G. Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Jordan, Lee, Lindsay, Lovell, Marzian, McKee, Moberly, Nunn, Palumbo, Pope, Rasche, Richards, Scott, Siler, Simpson, Sims, Stacy, Stein, Thomas, Wayne, Weaver, Wilkey, Yonts. Floor Amendment No. 49 to the Committee Substitute No. 2 to **HB 1** was rejected.

Representative Stumbo moved that the rules be suspended to allow Floor Amendment No. 85 to the Committee Substitute No. 2 to **HB 1** to be filed and acted upon. Agreed.

Representative Rasche moved the adoption of Floor Amendment No. 85 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Callahan moved that **HB 1**, by way of Committee Substitute No. 2 as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 24. (See May 20, 1997 roll call on **HB 1** - Appendix.)

HB 1, by way of Committee Substitute No. 2 as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 1**, by way of Committee Substitute No. 2 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Clerk read the following Governor's Proclamation:

To All To Whom These Presents Shall Come:

Pursuant to the power vested in me by Section 80 of the Constitution of the Commonwealth of Kentucky, I, Paul E. Patton, Governor of the Commonwealth of Kentucky, do issue this proclamation, amending my proclamation dated April 23, 1997, all the terms of which are incorporated by reference herein, and I do further hereby add the following matters to said proclamation for consideration by the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky:

(1) Adjust current appropriations by amending the 1996 Kentucky Acts Chapter 380, Part I, Section F and authorize the issuance of bonds and appropriate debt service under Part X to provide for additional support to the Commonwealth's post secondary and technical education system.

(2) Create a new appropriation by establishing Part XII of the 1996 Kentucky Acts Chapter 380 to provide additional support to the Commonwealth's Justice Cabinet, Department of Juvenile Justice.

(3) Amend Kentucky Revised Statutes Chapters 18A, 27A, 41, 42, 45, 45A, 56, 57 and 151B, and create new sections of Chapter 56 of the Kentucky Revised Statutes in order to adopt internal management practices to support the implementation of projects under the EMPOWER Kentucky Program.

(4) Amend various provisions of the Kentucky Revised Statutes as necessary to implement the provisions of this proclamation.

(5) Declaring an emergency thereby making any legislation enacted pursuant to this proclamation effective upon the signature of the Governor.

DONE AT THE CAPITOL, in the City of Frankfort, this 20th day of May in the year of our Lord One Thousand Nine

Hundred and Ninety-Seven and in the year of the Commonwealth the two Hundred and Sixth.

s/Paul E. Patton, Governor
s/John Y. Brown, Jr., Secretary of State

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for introduction of Bills and Report of Committees. Agreed.

Introduction of Bills

HB 4, by Representatives Richards, L. Clark, Lee, Marzian, Stumbo, Barrows, Curd, Stacy, Newsome, Coleman, Adams, Rasche, Brown, Clarke, Murgatroyd, Nunn, Weaver, Haydon, and Callahan: AN ACT relating to appropriations providing financing for post secondary education, juvenile justice, and the capital construction and technology trust fund plan, and declaring an emergency..

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Committee meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess

Representative Stumbo moved that the House recess for five minutes. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Cont.)

Representative Stumbo moved that the rules be suspended for a Committee on Committee Report. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Appropriations and Revenue: **HB 4**

Motions, Petitions and Communications (Cont.)

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcotte moved that his vote be changed from "yea" to "abstain" on Floor Amendment No. 40 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for an Appropriations and Revenue meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to appropriations providing financing for postsecondary education, juvenile justice, and the capital construction and technology trust fund plan, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 1996 Kentucky Acts Chapter 380, PART I, OPERATING BUDGET; Section F. Higher Education, at pages

1891 to 1894, is amended to read as follows:

F. *POSTSECONDARY*~~[HIGHER]~~ EDUCATION

37*A*. *COUNCIL ON POSTSECONDARY EDUCATION*

	1997-98
General Fund	*26,021,800*
Federal Funds	*3,984,600*
Total	*30,006,400*

Included in the above General Fund appropriation is an additional $647,900 in fiscal year 1997-98 for administration, operations, and staffing of the Council on Postsecondary Education to include regional advisory groups.

Also included in the above General Fund appropriation are additional funds totaling $15,000,000 in fiscal year 1997-98 for the Strategic Investment and Incentive Funding Program as established and created pursuant to enabling legislation as enacted by the General Assembly in the 1997 First Extraordinary Session. These fiscal year 1997-98 appropriations shall be made to each of the following trust funds in the corresponding amount for the purposes and uses established in enabling legislation as enacted by the General Assembly in the 1997 First Extraordinary Session:

a.	*Research Challenge Trust Fund*		*6,000,000*
b.	*Regional University Excellence Trust Fund*	*6,000,000*	
c.	*Postsecondary Workforce Development Trust Fund*	*3,000,000*	

These appropriations shall be distributed in accordance with the provisions of enabling legislation as enacted by the General Assembly in the 1997 First Extraordinary Session.

Included in the above General Fund appropriation is $2,200,000 in fiscal year 1997-98 to be used for matching Federal Funds received for The Experimental Program to Stimulate Competitive Research (EPSCoR) or EPSCoR type programs designed to enhance Kentucky's basic science and engineering infrastructure as well as for limited necessary administrative costs.

Included in the above General Fund appropriation is $800,000 in fiscal year 1997-98 to be distributed to Murray State University and the University of Kentucky for academic program operations based on the provisions of the framework for a regional higher education center in Paducah as approved by the Council on Higher Education on November 13, 1995. Also included in the above General Fund appropriation is $500,000 in fiscal year 1997-98 to be distributed to Murray State University and the University of Kentucky to be used exclusively for maintenance and operations costs for a new instructional facility to be constructed with private funds on the campus of Paducah Community College and for maintenance and operations costs, lease payment, or lease purchase payment for the Crisp Center to be used by Murray State University based on the provisions of the framework for a regional higher education center in Paducah as approved by the Council on Higher Education on November 13, 1995.

Included in the above General Fund appropriation is $215,000 in fiscal year 1997-98 for the Kentucky Community Service Commission, which is attached to the Council on Postsecondary Education for administrative purposes. General Fund appropriations to the Kentucky Community Service Commission are made with the intent of allowing Kentucky to remain eligible for programs funded under the federal Corporation for National Service. If this federal program is not funded, these General Fund appropriations shall not be allotted and shall lapse to the General Fund at the end of each fiscal year.

37B. COUNCIL ON HIGHER EDUCATION

	1996-97	~~[1997-98]~~
General Fund	8,766,300	~~[10,373,900]~~
Federal Funds	4,137,200	~~[3,984,600]~~
Total	12,903,500	~~[14,358,500]~~

Included in the above General Fund appropriation is $2,200,000 in fiscal year 1996-97~~[and $2,200,000 in fiscal year 1997-98]~~ to be used for matching Federal Funds received for The Experimental Program to Stimulate Competitive Research (EPSCoR) or EPSCoR type programs designed to enhance Kentucky's basic science and engineering infrastructure as well as for limited necessary administrative costs.

Included in the above General Fund appropriation is $200,000 in fiscal year 1996-97~~[and $800,000 in fiscal year 1997-98]~~ to be distributed to Murray State University and the University of Kentucky for academic program operations based on the provisions of the framework for a regional higher education center in Paducah as approved by the Council on Higher Education on November 13, 1995.~~[Also included in the above General Fund appropriation is $500,000 in fiscal year 1997-98 to be distributed to Murray State University and the University of Kentucky to be used exclusively for maintenance and operations costs for a new instructional facility to be constructed with private funds on the campus of Paducah Community College and for~~

~~maintenance and operations costs, lease payment, or lease purchase payment for the Crisp Center to be used by Murray State University based on the provisions of the framework for a regional higher education center in Paducah as approved by the Council on Higher Education on November 13, 1995.~~]

Included in the above General Fund appropriation is $145,000 in fiscal year 1996-97~~[and $215,000 in fiscal year 1997-98~~] for the Kentucky Community Service Commission, which is attached to the Council on Higher Education for administrative purposes. General Fund appropriations to the Kentucky Community Service Commission are made with the intent of allowing Kentucky to remain eligible for programs funded under the federal Corporation for National Service. If this federal program is not funded, these General Fund appropriations shall not be allotted and shall lapse to the General Fund at the end of each fiscal year.

38. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	1995-96	1996-97	1997-98
General Fund		28,505,400	30,103,200
Restricted Funds	265,800	11,467,000	11,883,000
Federal Funds		387,000	387,000
Total	265,800	40,359,400	42,373,200

Included in the above General Fund appropriation is $18,886,100 in fiscal year 1996-97 and $19,452,700 in fiscal year 1997-98 for College Access Program (CAP) grants. Nothing in the foregoing shall be construed to limit the Authority's capability to use these funds to match Federal Funds, make grant awards, or promulgate administrative regulations that conform to requirements of federal laws and regulations for full participation in federally-funded student financial assistance programs.

The General Fund appropriation shall be used solely for the purpose of making awards to students.

Any General Fund appropriations unexpended in fiscal years 1995-96 or 1996-97 to the Kentucky Higher Education Assistance Authority shall not lapse but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

Included in the above Restricted Funds appropriation is $500,000 each fiscal year for the College Work Study Program.

Included in the above Restricted Funds appropriation is $500,000 each fiscal year for the Kentucky Tuition Grant Program.

Included in the above Restricted Funds appropriation is $500,000 each fiscal year for the Kentucky National Guard Tuition Grant Program.

Included in the above Federal Funds appropriation is $387,000 each fiscal year for the College Access Program.

39. EASTERN KENTUCKY UNIVERSITY

	1996-97	1997-98
General Fund	***57,991,400***	***62,833,800***
[~~General Fund~~	~~57,991,400~~	~~59,817,700~~]
Restricted Funds	80,127,400	85,155,300
Federal Funds	18,911,700	18,911,700
Total	***157,030,500***	***166,900,800***
[~~Total~~	~~157,030,500~~	~~163,884,700~~]

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $3,016,100 to address the equity funding objective requested by the Council on Higher Education for the 1996-98 biennial budget.

Included in the above General Fund appropriation is $5,955,700 in fiscal year 1996-97 and $5,966,800 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $265,500 in fiscal year 1996-97 and $208,100 in fiscal year 1997-98 for performance funding.

40. KENTUCKY STATE UNIVERSITY

	1996-97	1997-98
General Fund	***19,578,900***	***19,924,500***
[~~General Fund~~	~~19,578,900~~	~~19,798,700~~]
Restricted Funds	10,762,400	11,077,800
Federal Funds	11,231,800	11,568,800
Total	***41,573,100***	***42,571,100***
[~~Total~~	~~41,573,100~~	~~42,445,300~~]

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $125,800 to address the

equity funding objective requested by the Council on Higher Education for the 1996-98 biennial budget.

Included in the above General Fund appropriation is $2,395,900 in fiscal year 1996-97 and $2,295,400 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $88,300 in fiscal year 1996-97 and $68,400 in fiscal year 1997-98 for performance funding.

41. MOREHEAD STATE UNIVERSITY

		1996-97	1997-98
General Fund		***34,610,500***	***36,823,100***
~~[General Fund~~		~~34,610,500~~	~~35,496,700]~~
Restricted Funds		32,936,200	33,452,500
Federal Funds		14,284,900	14,284,900
Total		***81,831,600***	***84,560,500***
~~[Total~~	~~81,831,600~~	~~82,234,100]~~	

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $1,326,400 to address the equity funding objective requested by the Council on Higher Education for the 1996-98 biennial budget.

Included in the above General Fund appropriation is $3,681,900 in fiscal year 1996-97 and $3,688,300 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $158,600 in fiscal year 1996-97 and $123,500 in fiscal year 1997-98 for performance funding.

42. MURRAY STATE UNIVERSITY

		1996-97	1997-98
General Fund		***41,700,200***	***43,926,200***
~~[General Fund~~		~~41,700,200~~	~~43,701,300]~~
Restricted Funds		37,785,800	38,408,400
Federal Funds		6,587,700	6,587,700
Total		***86,073,700***	***88,922,300***
~~[Total~~	~~86,073,700~~	~~88,697,400]~~	

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $224,900 to provide an operating budget increase.

Included in the above General Fund appropriation is $3,841,400 in fiscal year 1996-97 and $3,836,700 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $193,800 in fiscal year 1996-97 and $150,000 in fiscal year 1997-98 for performance funding.

43. NORTHERN KENTUCKY UNIVERSITY

		1996-97	1997-98
General Fund		***31,566,100***	***33,256,300***
~~[General Fund~~		~~31,566,100~~	~~32,326,600]~~
Restricted Funds		44,692,800	46,097,700
Federal Funds		4,873,700	4,873,700
Total		***81,132,600***	***84,227,700***
~~[Total~~	~~81,132,600~~	~~83,298,000]~~	

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $929,700 to address the equity funding objective requested by the Council on Higher Education for the 1996-98 biennial budget.

Included in the above General Fund appropriation is $5,220,800 in fiscal year 1996-97 and $5,220,800 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $135,400 in fiscal year 1996-97 and $105,000 in fiscal year 1997-98 for performance funding.

44. UNIVERSITY OF KENTUCKY

1996-97 1997-98

General Fund	*263,336,400*	*272,623,000*
~~[General Fund~~	~~263,336,400~~	~~271,143,000]~~
Restricted Funds	509,237,500	522,833,500
Federal Funds	76,686,700	78,372,100
Total	*849,260,600*	*873,828,600*
~~[Total~~	~~849,260,600~~	~~872,348,600]~~

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $1,480,000 to provide an operating budget increase.

Included in the above General Fund appropriation is $15,427,900 in fiscal year 1996-97 and $15,450,000 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $1,274,800 in fiscal year 1996-97 and $986,700 in fiscal year 1997-98 for performance funding.

Included in the above General Fund appropriation is $300,000 in fiscal year 1996-97 and $300,000 in fiscal year 1997-98 for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 1996. Allotment of this appropriation is contingent upon certification by the Council on Higher Education that necessary conditions have been met *in fiscal year 1996-97 or by the Council on Postsecondary Education in fiscal year 1997-98*.

45*A*. UNIVERSITY OF KENTUCKY COMMUNITY COLLEGE SYSTEM

	1996-97	1997-98
General Fund	82,609,500	87,404,500
Restricted Funds	65,243,400	66,574,200
Federal Funds	28,880,800	29,015,100
Total	176,733,700	182,993,800

Included in the above General Fund appropriation is $11,483,600 in fiscal year 1996-97 and $11,508,800 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $346,100 in fiscal year 1996-97 and $284,300 in fiscal year 1997-98 for performance funding.

It is the intent of the General Assembly that for fiscal year 1997-98 the University of Kentucky Community College System shall maintain the locations and funding levels for course delivery as well as instructional support that were provided for instructional locations in fiscal year 1996-97 for extended-campus centers and instructional sites approved or recognized by the Council on Higher Education including, but not limited to: Ashland Community College (Boyd, Carter, Greenup, and Lawrence Counties); Elizabethtown Community College (Hardin, Breckinridge, Grayson, Meade and Nelson Counties); Hazard Community College (Perry, Breathitt, Knott, Lee, Leslie, Letcher, Owsley, and Wolfe Counties); Henderson Community College (Henderson and Union Counties); Hopkinsville Community College (Christian, Caldwell, Todd, and Trigg Counties); Jefferson Community College (Jefferson, Bullitt, Carroll, Oldham, and Shelby Counties); Lexington Community College (Fayette, Clark, and Mercer Counties); Madisonville Community College (Hopkins, Crittenden, McLean, Muhlenberg, and Webster Counties); Maysville Community College (Mason, Bourbon, Bracken, Fleming, Harrison, Lewis, Nicholas, and Pendleton Counties); Owensboro Community College (Daviess, Hancock, and Ohio Counties); Paducah Community College (McCracken, Ballard, Graves, Hickman, Livingston, Lyon, and Marshall Counties); Prestonsburg Community College (Floyd, Johnson, Magoffin, Martin, and Pike Counties); Somerset Community College (Pulaski, Casey, Clinton, Laurel, McCreary, Rockcastle, Russell, and Wayne Counties); and Southeast Community College (Harlan, Bell, and Letcher Counties).

Any University of Kentucky or University of Kentucky Community College System lease or lease purchase agreement in existence on or after July 1, 1996, for space to support the operations of any University of Kentucky Community College System extended-campus center or instructional site including the lease with the City-County Industrial Development Authority of the City of London - Laurel County, dated May 2, 1997, shall not be canceled during either fiscal year 1996-97 or fiscal year 1997-98 by the University of Kentucky or the University of Kentucky Community College system unless such cancellation is approved by the Council on Postsecondary Education.

Funding for the Lees College Campus of Hazard Community College shall be continued by the University of Kentucky from proceeds of the E. O. Robinson Trust for fiscal year 1997-98 as authorized by the University of Kentucky Board of Trustees in December, 1995. If the University of Kentucky, for whatever reason, does not fund the Lees College

Campus of Hazard Community College in fiscal year 1997-98 from proceeds of the E. O. Robinson Trust, equivalent funding shall be provided for the Lees College Campus of Hazard Community College by transferring a like sum of money from the University of Kentucky appropriation to the University of Kentucky Community College System appropriation for the purpose of funding the Lees College Campus of Hazard Community College.

45B. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	1997-98
General Fund	***11,768,700***

The above appropriation includes funding for the administrative costs of the Kentucky Community and Technical College System as created by enabling legislation as enacted by the General Assembly in the 1997 First Extraordinary Session. This appropriation shall be allotted and administered as set forth in Section 4 of this Act.

Also included in the above General Fund appropriation is $912,000 in support of the University of Kentucky College of Engineering extended campus programs at the Regional Center in Paducah established by the framework as approved by the Council on Higher Education on November 13, 1995. The use of these funds shall be limited to the following technology/telecommunications items including items of "equipment" and "systems" as defined in KRS 45.750 in support of those University of Kentucky College of Engineering extended campus programs: 1) voice and data lines; 2) Private Branch Exchange (PBX) switch system; 3) science and engineering building communications wiring; 4) computers and routers for the engineering programs; and 5) Interactive Television (ITV) equipment for one classroom. The University of Kentucky College of Engineering extended campus programs at the Regional Center in Paducah shall have the same Accrediting Board of Engineering and Technology (ABET) accreditation status as the University of Kentucky main campus College of Engineering programs. The University of Kentucky College of Engineering extended campus programs at the Regional Center in Paducah shall not be separately accredited programs of the University of Kentucky College of Engineering.

46. UNIVERSITY OF LOUISVILLE

		1996-97	1997-98
General Fund		***147,843,200***	***154,179,700***
~~[General Fund~~		~~147,843,200~~	~~151,460,500]~~
Restricted Funds		197,466,300	200,754,200
Federal Funds		24,981,600	24,981,600
Total		***370,291,100***	***379,915,500***
~~[Total~~	~~370,291,100~~	~~377,196,300]~~	

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $719,200 to provide an operating budget increase. Also included in the above General Fund appropriation in fiscal year 1997-98 is an additional $2,000,000 for research and development.

Included in the above General Fund appropriation is $12,077,900 in fiscal year 1996-97 and $12,074,900 in fiscal year 1997-98 for debt service for previously-issued bonds. Also included in the above General Fund appropriation is $15,023,200 in fiscal year 1996-97 and $15,549,000 in fiscal year 1997-98 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to indigent care in the first year of the biennium shall continue into the second year, for this purpose. Any unused portion of the General Fund appropriation relating to indigent care shall lapse to the credit of the General Fund at the end of fiscal year 1997-98.

Included in the above General Fund appropriation is $619,500 in fiscal year 1996-97 and $479,500 in fiscal year 1997-98 for performance funding.

Included in the above General Fund appropriation is $300,000 in fiscal year 1996-97 and $300,000 in fiscal year 1997-98 for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 1996. Allotment of this appropriation is contingent upon certification by the Council on Higher Education that necessary conditions have been met ***in fiscal year 1996-97 or by the Council on Postsecondary Education in fiscal year 1997-98***.

47. WESTERN KENTUCKY UNIVERSITY

	1996-97	1997-98
General Fund	***54,649,100***	***56,614,200***
~~[General Fund~~	~~54,649,100~~	~~55,852,900]~~

Restricted Funds	55,026,500	56,575,300
Federal Funds	13,097,500	13,097,500
Total	***122,773,100***	***126,287,000***
~~[Total~~	~~122,773,100~~	~~125,525,700]~~

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $761,300 to address the equity funding objective requested by the Council on Higher Education for the 1996-98 biennial budget.

Included in the above General Fund appropriation is $4,416,200 in fiscal year 1996-97 and $4,414,400 in fiscal year 1997-98 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $259,600 in fiscal year 1996-97 and $200,900 in fiscal year 1997-98 for performance funding.

TOTAL - ***POSTSECONDARY***~~[HIGHER]~~ EDUCATION

	1995-96	1996-97	1997-98
General Fund		***771,157,000***	***835,479,000***
~~[General Fund~~		~~771,157,000~~	~~797,479,000]~~
Restricted Funds	265,800	1,044,745,300	1,072,811,900
Federal Funds		204,060,600	206,064,700
TOTAL	***265,800***	***2,019,962,900***	***2,114,355,600***
~~[TOTAL~~	~~265,800~~	~~2,019,962,900~~	~~2,076,355,600]~~

Section 2. 1996 Kentucky Acts Chapter 380, PART X, GENERAL FUND CAPITAL CONSTRUCTION AND TECHNOLOGY TRUST FUND; at pages 1977 to 1980, is amended to read as follows:

PART X

~~[GENERAL FUND]~~CAPITAL CONSTRUCTION AND TECHNOLOGY TRUST FUND PLAN

1. A~~[General Fund]~~ Capital Construction and Technology Trust Fund Plan (the Plan) for fiscal year 1995-96 and fiscal year 1996-97 is enacted. As determined under the provisions of this Act, the Plan authorizes and directs the expenditure of General Fund moneys to capital projects as defined by KRS 45.750 for the fiscal year 1995-96 upon enactment of this Act. The General Fund amount appropriated in fiscal year 1995-96 for capital projects identified in priority rank order in this Part of this Act is $38,260,700. This amount is one-half of the projected General Fund undesignated fund balance for the General Fund Surplus Account for fiscal year 1995-96 not appropriated in either Part I or Part II of this Act.

2. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 1995-96, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan in fiscal year 1996-97.

The Secretary of the Finance and Administration Cabinet is authorized to make available from one-half of the moneys in the General Fund undesignated fund balance for the General Fund Surplus Account the following amounts to the following budget units for all capital projects authorized in this Part of this Act in the priority rank order set forth below upon certification to the Legislative Research Commission that sufficient actual amounts in the General Fund undesignated fund balance for the General Fund Surplus Account for fiscal year 1995-96 have, in fact, been achieved.

Subsequent to June 30, 1996, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 1996-97 pursuant to the Plan in the priority rank order set forth in this Part.

3. Insofar as sufficient General Fund moneys are estimated to be available upon the enactment of this Act, the priority project listing enumerated in this Part is appropriated in fiscal year 1995-96. To the extent that projects are enumerated in the priority ranking and sufficient General Fund moneys are not estimated to be available for expenditure and appropriation in fiscal year 1995-96, the remaining projects in the priority order set forth in this Part are appropriated from the actual General Fund undesignated fund balance of the General Fund Surplus Account effective July 1, 1996, for fiscal year 1996-97.

4. In addition to the General Fund amounts enumerated and appropriated in this Part for the nonrecurring capital projects listed, the following appropriations are approved coincident with the General Fund appropriations: University of Louisville - Health Science Center Research Facility - Restricted Funds - $14,000,000; Eastern Kentucky University - Classroom Building/Wellness Center - Restricted Funds - $750,000; University of Kentucky Community College System - Hazard Community College Classroom and Faculty Offices - Restricted Funds - $2,000,000; Tourism Development Cabinet - Department of Parks - Pine Mountain Development Lake Area - Other Funds - $1,500,000; and Tourism Development Cabinet - Department of Parks - General Butler New Conference Center - Other Funds - $50,000.

5. To the extent that sufficient amounts in the General Fund undesignated fund balance for the General Fund Surplus Account are not realized at June 30, 1996, for appropriation in fiscal year 1996-97, additional projects are not certified for

expenditure in fiscal year 1996-97. Only those projects whose total project cost is provided in either fiscal year 1995-96 or fiscal year 1996-97 from the fund sources enumerated above may proceed.

6. ***Bond funds for*** nonrecurring capital projects are ***authorized***[~~funded~~] for the budget units of the Executive Branch pursuant to the provisions of the Plan in the following priority order:

Priority [~~General Fund~~]	***Bond Funds 1996-97***	***General Fund Debt Service 1997-98***
A. JUSTICE		
Budget Unit		
1. Department of ***Juvenile Justice***[~~Corrections~~] - Northern Kentucky Secure Juvenile Detention Center	4,300,000	***420,000***
2. Department of ***Juvenile Justice***[~~Corrections~~] - Western Kentucky Secure Juvenile Detention Center	4,300,000	***420,000***
B. ***POSTSECONDARY***[~~HIGHER~~] EDUCATION		
Budget Unit		
3. University of Kentucky Community College System - Hopkinsville Regional Technical Training Center	11,445,000	***1,109,000***
4. University of Kentucky Community College System - Ashland Community College Classroom Building	5,500,000	***535,000***
5. University of Louisville - Health Science Center Research Facility	14,000,000	***1,357,000***
6. University of Kentucky - Pin Oak Farm - Animal Science Research Center	12,480,000	***1,208,000***
7. University of Kentucky Community College System - Prestonsburg Community College Classroom/ Health Education Building	5,500,000	***535,000***
C. CABINET FOR WORKFORCE DEVELOPMENT		
Budget Unit		
8. Department of Technical Education - Kentucky Tech - Pike County Technology Center8,244,000	***799,000***	
D. CABINET FOR ECONOMIC DEVELOPMENT		
Budget Unit		
9. Department of Financial Incentives - Northern Kentucky Convention Center - Enhancements	3,000,000	***294,000***
E. ***POSTSECONDARY***[~~HIGHER~~] EDUCATION		
Budget Unit		
10. Western Kentucky University - Renovate Economic Development Institute	4,000,000	***391,000***
11. Eastern Kentucky University - Classroom Building/ Wellness Center	4,000,000	***391,000***
12. University of Kentucky Community College System - Madisonville - Student/Auditorium Parking800,000	***83,000***	
13. University of Kentucky Community College System - Hazard Community College Classroom and		

Faculty Offices	5,500,000	***535,000***
TOURISM DEVELOPMENT CABINET		
Budget Unit		
14. Department of Parks - Yatesville Lake Marina	1,173,000	***119,000***
15. Department of Parks - My Old Kentucky Home Visitors Center	1,300,000	***131,000***
16. Department of Parks - Pine Mountain Lake Development	2,938,000	***289,000***
17. Department of Parks - Jefferson Davis Monument Visitors Center	650,000	***68,000***
18. Department of Parks - Taylorsville Lake Campground	2,125,000	***210,000***
19. Department of Parks - Yatesville Lake Campground	2,200,000	***217,000***
20. Department of Parks - Cumberland Falls Interpretive Center	636,000	***67,000***
21. Department of Parks - General Butler Conference Center	2,230,000	***221,000***
22. Department of Parks - Kentucky Horse Park Stalls	550,000	***58,000***
23. Department of Parks - Buckhorn Conference Center	1,120,000	***113,000***
24. Department of Parks - Lake Barkley Covered Pool	1,427,000	***143,000***
25. Department of Parks - Lake Cumberland Parking	968,000	***99,000***
26. Department of Parks - Blue Licks Guest House	1,500,000	***150,000***
27. Department of Parks - Completion of Dale Hollow Lodge	1,500,000	***150,000***
TOTAL~~[GENERAL FUND]~~	103,386,000	***10,112,000***

The above Bond Funds and the associated General Fund debt service appropriations are substituted for the cash appropriations from the General Fund provided in subsections 1, 2, 3, and 12 of this section. The State Property and Buildings Commission shall issue the bonds. Moneys made available from the substitution of funding sources for the above projects shall be credited by the Secretary of the Finance and Administration Cabinet to the General Fund Surplus Account.

7. An amount identical to that appropriated for capital projects in both fiscal year 1995-96 and fiscal year 1996-97 as enumerated and appropriated above shall be appropriated to a Technology Trust Fund subject to the same certification of projected General Fund undesignated fund balance for the General Fund Surplus Account moneys in fiscal year 1995-96 and actual General Fund undesignated fund balance for the General Fund Surplus Account at June 30, 1996, required by this Act. The General Fund amount appropriated in fiscal year 1995-96 for the Technology Trust Fund created and enacted in this Act is $38,260,700. This amount is one-half of the projected General Fund undesignated fund balance for the General Fund Surplus Account for fiscal year 1995-96 not appropriated in either Part I or Part II of this Act.

8. The General Assembly has determined that the following provisions shall apply to all General Fund appropriations in this Act to the Technology Trust Fund.

a. The provisions of KRS 45.750 to 45.800; KRS 48.010(7); (9), (13)(c), (14)(a), 14(d), and 14(e); KRS 48.110(6); and KRS 48.190 notwithstanding, the Secretary of the Governor's Executive Cabinet is authorized to identify and select individual projects, initiatives, and systems necessary to improve service delivery at reduced costs through the use of technology. These provisions and this General Assembly determination to temporarily suspend or supersede any statute to the contrary are authorized in order to accomplish the public purpose of improving public service delivery at less public cost.

b. The provisions of KRS 45.750 to 45.800; KRS 48.010(7), (9), (13)(c), (14)(a), 14(d), 14(e); KRS 48.110(6); and KRS 48.190 notwithstanding, in selecting projects eligible for expenditure from the appropriations provided, the Secretary shall rely upon the following standards and guidelines: 1) the foremost criteria for individual project or process selection shall be demonstrable cost savings on a recurring basis through the employment of technology and training which would improve service delivery; 2) appropriations made to the Technology Trust Fund can be applied and directed to both the operating and capital budget of affected agencies; 3) the decision-making and priority setting responsibilities for allocating these funds are vested in the Secretary of the Governor's Executive Cabinet, upon advice and consultation from the Redesign Steering Committee comprised of both Executive Branch and General Assembly members, and upon official authorization of the Secretary of the Finance and Administration Cabinet; 4) eligible projects, initiatives, and systems that receive Technology Trust Fund support may be selected from agency budget requests or the budget document and supportive workpapers developed in support of this Act. However, projects, initiatives, and systems so selected are not exclusively confined to the lists, requests, and plans just enumerated and may be developed by the Redesign Steering Committee cited above; 5) quarterly reports will be required to be made to the Legislative Research Commission and its committees to ensure proper oversight and accountability; 6) each individual system or initiative developed and supported from appropriations made available through the Technology Trust Fund established in this Act shall employ technology that is compatible with the information systems technology used by the General Assembly and Legislative Research Commission.

9. Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from a discrete account established for the individual project, initiative, or system item in the Operating Budget and the Capital Budget.

10. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the emergency repair, maintenance and replacement account or the capital construction and equipment purchase contingency account shall be used for Technology Trust Fund projects, systems, or initiatives.

11. Figures for amounts in all determinations, authorizations, and appropriations under the Plan shall be rounded to the lower hundredth dollar.

12. Notwithstanding KRS 45.229, appropriations from the General Fund for the projects, systems, and initiatives identified and authorized as part of the Plan shall be continued appropriations and not lapse to the General Fund. Appropriations made to components of the Plan in fiscal year 1995-96 shall be continued in fiscal year 1996-97. Appropriations made to components of the Plan in fiscal year 1996-97 shall continue in fiscal year 1997-98.

13. Nothing in this Part shall be construed as modifying, suspending, or superseding the Model Procurement Code as set forth in KRS Chapter 45A.

14. Nothing in this Part shall be construed as modifying, suspending, or superseding the provisions of KRS Chapter 18A of the merit system.

Section 3. 1996 Kentucky Acts Chapter 380, at page 1981, is amended to read as follows:

PART XII

JUSTICE CABINET

Department of Juvenile Justice

	1997-98
General Fund	*4,000,000*

For fiscal year 1997-98 there is appropriated an additional $4 million from the General Fund to the Department of Juvenile Justice created by the 1996 Regular Session of the General Assembly in 1996 Kentucky Acts Chapter 358 (House Bill 117) codified as KRS 15A.065 and as constituted by Executive Order 96-1576. These additional appropriations are for the purposes of complying with the Consent Decree executed by the Commonwealth with the U.S. Department of Justice pertaining to juvenile justice administration, care, services, and public protection, and to provide juvenile delinquency preventive programs, including community-based grants, as may be required to fulfill the responsibilities of the Department of Juvenile Justice set out in 1996 Kentucky Acts Chapter 358 (House Bill 117) of the 1996 Regular Session of the General Assembly. These funds are in addition to funds appropriated by the 1996 General Assembly in 1996 Kentucky Acts Chapter 380 (House Bill 379) for juvenile justice purposes to the Cabinet for Human Resources, Department for Social Services, or to the Cabinet for Families and Children; to the Corrections Management budget unit in the Department of Corrections; and to the Justice Administration budget unit in the Justice Cabinet.

The requirement that the Department of Juvenile Justice shall pay for the confinement of persons pursuant to KRS 635.060(4) and (5) shall not apply to juveniles confined on or before June 30, 1998.

Section 4. It is the intent of the General Assembly that until the employment of the first President of the Council on Postsecondary Education as established under enabling legislation as enacted by the General Assembly in the 1997 First Extraordinary Session all appropriations for fiscal year 1997-98 related to the postsecondary education system as established pursuant to this Act shall be administered by the State Budget Director of the Governor's Office for Policy and Management for the purposes of providing policy direction and implementing the provisions of this Act and enabling legislation as enacted by the

General Assembly in the 1997 First Extraordinary Session. All such policy direction and all decisions related to the execution of the appropriations for fiscal year 1997-98 referred to in this Act shall be communicated to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue. Moreover, it is the intent of the General Assembly that the Kentucky Revised Statutes relating to the system of postsecondary education to the contrary notwithstanding, all personnel and resources within the postsecondary education system identified by the State Budget Director as being necessary to assist in carrying out the provisions of this Act and enabling legislation as enacted by the General Assembly in the 1997 First Extraordinary Session shall be made available to the State Budget Director of the Governor's Office for Policy and Management. The purpose of this provision is to provide policy transition for implementing the postsecondary education system. This authority shall continue only until such time as the first President is employed by the Council on Postsecondary Education.

Section 5. For purposes of conforming the names of entities throughout 1996 Kentucky Acts Chapter 380 (House Bill 379), the 1996-98 State/Executive Branch Budget, references made to the Council on Higher Education for fiscal year 1997-98 purposes shall be deemed to be to the Council on Postsecondary Education unless the context requires otherwise.

Section 6. For purposes of conforming the funding source references throughout 1996 Kentucky Acts Chapter 380 (House Bill 379), the 1996-98 State/Executive Branch Budget, any reference to itemized capital projects enumerated in Part X, Section 6, for which the funding source is the General Fund Surplus Account shall be deemed to be financed by Bond Funds.

Section 7. The provisions of this Act shall prevail over any conflicting provision of 1996 Kentucky Acts Chapter 382, (House Joint Resolution 50) the 1996-98 State/Executive Budget Memorandum.

Section 8. Whereas it is critical to provide fiscal resources for postsecondary education by July 1, 1997, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Motions, Petitions and Communications (Cont.)

Representative Stumbo moved that **HB 4** be recommitted to Appropriations and Revenue. Agreed.

Representative Damron moved the adoption of the following **HR 15**:

HR 15, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James G. "Jimmy" Tanner.

With deepest respect, we pay homage and tribute to James G. "Jimmy" Tanner.

WHEREAS, Jimmy Tanner was born on February 4, 1962, a native of Nicholasville, Jessamine County, Kentucky, and traversed these earthly bounds on March 26, 1997; and

WHEREAS, Jimmy Tanner was the loving son of Dorothy and Charles Livings and the late Edward J. Tanner; he was the adored brother of Bruce Tanner and his wife, Regina Tanner; and he was the loving grandson of Mary Denman; and

WHEREAS, Jimmy Tanner was a talented artist by which he communicated and revealed his deeper feelings and visions while conveying his spiritual truth through color, form, and line; and may he celebrate and enjoy forever what he now sees clearly in the beauty of God's presence; and

WHEREAS, all who knew and admired Jimmy Tanner will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Jimmy Tanner, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James G. "Jimmy" Tanner.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Mrs. Dorothy Livings and Mrs. Mary Denham, 3108 Vince Road, Nicholasville, Kentucky 40356.

There being no objection **HR 15** was adopted.

Representative Thomas moved the adoption of the following **HR 16**:

HR 16, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Basil W. Griffin, Jr.

With deepest respect, we pay homage and tribute to the memory of Basil W. Griffin, Jr.

WHEREAS, Basil W. Griffin, Jr., was born on November 27, 1923, a native of Henderson County, Kentucky and a longtime resident of Bowling Green, Kentucky, and traversed these earthly bounds on January 11, 1997; and

WHEREAS, Basil W. Griffin, Jr., was the adored son of Colie Farley Griffin and Basil W. Griffin, Sr., who preceded him in death; and

WHEREAS, Basil W. Griffin, Jr., was the devoted husband of Lucille M. Griffin; he was the loving father of Nita Elaine Jaynes, and the proud grandfather of two grandchildren; and

WHEREAS, Basil W. Griffin, Jr., received his bachelor of arts and master's degrees from Western Kentucky University, and he received his law degree from Cumberland University; and

WHEREAS, Basil W. Griffin, Jr., served his country with distinction during World War II, and was decorated with the distinguished silver star and purple heart; and

WHEREAS, Basil W. Griffin, Jr., served as Warren County juvenile court judge from 1962 to 1978; he served as Warren County judge-executive for thirty two years, during which time, because of his frugality, vision, and insight, he was instrumental in collecting a large revenue surplus for Warren County that has been beneficial in preparing the county to deal with today's challenges; and

WHEREAS, Basil W. Griffin, Jr., was a leader in regionalism and was influential in forming the Barren River Area Development District where he served as past chairman; he was a past board member of the Barren River District Health Department; he was past president of the War Memorial Boy's Club; he was a board member of Commonwealth Health Corporation; and he was a retired board member of Bowling Green Bank and Trust; and

WHEREAS, it is with fond recollection that we remember him not only for his many accomplishments and the friendships he made and sustained through the years, but also his compassion for and understanding of the common man which he demonstrated daily; and

WHEREAS, all who knew and admired Basil W. Griffin Jr. will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Basil W. Griffin, Jr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Basil W. Griffin, Jr. brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Basil W. Griffin, Jr.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Lucille M. Griffin, 815 Ridgecrest Drive, Bowling Green, Kentucky 42104.

There being no objection **HR 16** was adopted.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative McKee moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 72 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative McKee moved that he be recorded as voting "nay" on Floor Amendment No. 23 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lee moved that he be recorded as voting "nay" on Floor Amendment No. 59 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Stumbo moved that the motion to recommit **HB 4** to Appropriations and Revenue be rescinded. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative R. Adams moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Mason moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Mason moved that he be recorded as voting "yea" on Floor Amendment No. 54 to the Committee

Substitute No. 2 to **HB 1**. Agreed.

Representative Alexander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Alexander moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 9 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Alexander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Alexander moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Representative Maricle moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Maricle moved that he be recorded as voting "yea" on Floor Amendment No. 72 to the Committee Substitute No. 2 to **HB 1**. Agreed.

Announcements

The following meetings were announced:

Subcommittee on Families and Children, 10:00 a.m., May 21, Room 125

Capitol Projects and Bond Oversight, 10:00 a.m. or upon adjournment of the Senate, Room 113, May 21.

Health and Welfare, 1:00 p.m., Room 125, May 21.

State Government, 1:00 p.m., May 21.

Adjournment

Representative Stumbo moved that the House adjourn until 12 noon, Wednesday, May 21, 1997.

On the roll call the vote was **Yeas 83**--R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Ballard, Baugh, Bowling, Brandstetter, Bratcher, Brown, De. Butler, Dw. Butler, Callahan, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Nunn, Palumbo, Polston, Rader, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays -- 0**.

The motion to adjourn was adopted.

WEDNESDAY, MAY 21, 1997

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Don Vanzant, First Christian Church, Versailles.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bratcher, Deskins, Gooch, Miracle, Newsome, Reinhardt, Simpson and Walton.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 20, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Barrows moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following **Legislative Citation No. 24**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates The Woodford County Wrestling Team for capturing the 1997 State Wrestling Championship. Inasmuch as the Woodford County wrestling team has reached the pinnacle of athletic achievement, not only by winning this dazzling state championship back-to-back with the 1996 championship, but by breaking the state tournament scoring record and attaining its eighth state championship in the sport of wrestling, this prestigious body does hereby recognize the extraordinary talent, teamwork and diligence of this group of phenomenal athletes. The House of Representatives proudly joins with Representative Joe Barrows in applauding this team for its many achievements and extends best wishes for future success. **Legislative Citation No. 24** was adopted without objection.

Representative Collins moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Collins moved the adoption of the following **Legislative Citation No. 30**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to The Academic Team of Johnson County Middle School which placed 1st in the Quick Recall and 6th Overall in the 1997 State Governor's Cup Competition. This outstanding team of young academicians has brought a great deal of recognition to Johnson County Middle School and the community. The House of Representatives joins with Representative Hubert Collins in commending you for your accomplishment and wishing you every success in the future. **Legislative Citation No. 30** was adopted without objection.

Introduction of Bills and Resolutions

HB 5, by Representatives Moberly and Long: AN ACT relating to finance and administration, and declaring an emergency.

HR 17, by Representative Thomas: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mary Stevenson Richards.

HR 18, by Representatives A. Arnold and Ford: A RESOLUTION to support excluding election officials and election workers from Form W-2 filing requirements under Section 6051 of the Internal Revenue Code of 1986.

HR 19, by Representatives Nunn, Baugh, Mason, Stumbo, Cave, Ford, L. Clark, Allen, Richards and Barrows: A RESOLUTION in honor of Kentucky's new Poet Laureate, Ms. Joy Bale Boone.

Calendar

HB 4 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Rules Report. Agreed.

Report of Committee

The Committee on Rules reported that **HJR 6** and **HB 4** have been posted for passage in the Orders of the Day for May 22, 1997.

Representative Stumbo moved that **HB 4** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Orders of the Day

HB 2 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 2** be passed.

On the roll call the vote was: Yeas 87 , Nays 0 (See May 21 , 1997 roll call on **HB 2** - Appendix)

HB 2 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 2** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Thomas moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Thomas moved the adoption of the following **HR 17**:

HR 17, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mary Stevenson Richards.

With deepest respect, we pay homage and tribute to Mary Stevenson Richards.

WHEREAS, Mary Stevenson Richards was born on August 26, 1904, a native of Russell County, Kentucky, and traversed these earthly bounds on May 19, 1997; and

WHEREAS, Mary Stevenson Richards was the adored daughter of M.O. and Eula Barger Stevenson, who preceded her in death; she was the devoted wife of the late Demaree Richards; and

WHEREAS, no language can express the power and beauty, the heroism, and the greatness of a mother's love, and Mary Stevenson Richards was the loving mother of two sons, Jody Richards and James Stevenson Richards; she was the proud grandmother of two grandsons, James Stevenson Richards and Roger Watt, a foster granddaughter, Melissa Anne "Missy" Petrey, and a granddaughter who preceded her in death, Ann Waggener Richards; and she was the loving great-grandmother of a great-granddaughter, Holly Beth Watt; and

WHEREAS, Mary Stevenson Richards graduated in 1925 from the first graduating class of Lindsey Wilson College, and she graduated from Kentucky Wesleyan College in 1927; and

WHEREAS, Mary Stevenson Richards was a school teacher in the Columbia County and Adair County school systems for thirty-seven years, and she was the principal and boys basketball coach at Knifley High School, which later became Adair County High School; and

WHEREAS, Mary Stevenson Richards was a member of the United Methodist Church for more than seventy years, and she was a former member of the Columbia Women's Club and the Daughters of the American Revolution; and

WHEREAS, the passing of Mary Stevenson Richards has left a void that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its profound sense of sorrow upon the passing of Mary Stevenson Richards, and does extend to her family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness that Mary Stevenson Richards brought to this

Commonwealth will never be forgotten, and her influence will continue through her family.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Mary Stevenson Richards.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Jody Richards, 817 Culpepper Street, Bowling Green, Kentucky 42103.

There being no objection **HR 17** was adopted.

Roll call to show co-sponsors of **HR 17** is as follows: J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Worthington, Yonts, Zimmerman.

Representative Ballard moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Ballard moved the adoption of the following **Legislative Citation No. 25**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Garnet Pennington for a multitude of extraordinary years of dedication to the residents of Madisonville and commitment to improving the quality of life therein. Whereas, exceptional loyalty and civic awareness exhibiting honesty and integrity constitute the epitome of a true civic leader with vision; therefore, this honorable body commends said recipient for the bestowal of those special gifts that make Madisonville a blue ribbon community in which to reside. Those accomplishments and the community recognition of those remarkable deeds will be a living monument to the genuine commitment demonstrated by the 1997 "Woman of the Year" and the Kentucky House of Representatives applauds a truly outstanding citizen of the Commonwealth. **Legislative Citation No. 25** was adopted without objection.

Representative Ballard moved the adoption of the following **Legislative Citation No. 26**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Tim Thomas for a multitude of extraordinary years of dedication to the residents of Madisonville and commitment to improving the quality of life therein. Whereas, exceptional loyalty and civic awareness exhibiting honesty and integrity constitute the epitome of a true civic leader with vision; therefore, this honorable body commends said recipient for the bestowal of those special gifts that make Madisonville a blue ribbon community in which to reside. Those accomplishments and the community recognition of those remarkable deeds will be a living monument to the genuine commitment demonstrated by the 1997 "Man of the Year" and the Kentucky House of Representatives applauds a truly outstanding citizen of the Commonwealth. **Legislative Citation No. 26** was adopted without objection.

Representative Long moved the adoption of the following **Legislative Citation No. 29**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Dorothy LeCompte Hancock. For inasmuch as death, like life, is a gift from God, it is inevitable that this honoree is destined to sit at the foot of the cross for her phenomenal deeds throughout her lifetime and surely has earned the jewel in her sacred crown, therefore, this prestigious body doth hereby recognize the lady as an individual dedicated to the Frankfort community and the Good Shepherd Church; always the loving mother who wisely reared her exceptional son to eventually serve several distinguished terms of office in the Kentucky House of Representatives; said recipient was an inspiration and a beacon of unselfish acts and love for fellowman. Members of the House of Representatives reach out to the Hancock family, children and friends, offering sincere condolences and adjourning May 21, 1997, in memory of Dorothy LeCompte Hancock. **Legislative Citation No. 29** was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 28**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Rockcastle County Lady Rockets for capturing the Region 13 Championship in Kentucky girls' basketball for 1996-1997, for ranking number one in District 49 and for attaining its first-ever number one ranking in Region 13. Whereas the outstanding athletes on this team also finished their season with a 26-6 win-loss record, and whereas these achievements and many others have continued the winning tradition of the fabulous Rockcastle County Lady Rockets, therefore, this prestigious body joins Representative Danny Ford in commending this team for the phenomenal talent of its young women and their coaches, and for the honor and distinction they have brought to Rockcastle County High School and to the surrounding community. **Legislative Citation No. 28** was adopted without objection.

Representative Coleman moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 21**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Don Miller Lamar. For inasmuch as death, like life, is a gift from God, it is inevitable that this honoree is destined to sit at the foot of the cross for his phenomenal deeds throughout his lifetime and surely has earned the jewel in his crown and this prestigious body doth hereby recognize the gentleman as an individual dedicated to his community, serving as deacon of the Harrodsburg Baptist Church; a dedicated choir member and Sunday School teacher; said recipient was also a distinguished employee of the Kentucky Department of Agriculture, Division of Pesticides and an inspiration and beacon of unselfish acts and love for his fellowman. Members of the House of Representatives reach out to the Lamar family, his wife, Suzanne Morris Lamar, offering sincere condolences and adjourning May 20, 1997, in memory of Don Miller Lamar. **Legislative Citation No. 21** was adopted without objection.

Representative Heleringer moved the adoption of the following **Legislative Citation No. 27**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Fidelis O'Donnell on the joyous occasion of her 91st birthday. Born in Albuquerque, New Mexico, Mrs. O'Donnell resided for many years in Anchorage, Kentucky, where she created a delightful home for her daughters and pursued her avocation of raising horses. Presently residing in Louisville, she is active in the Ministers of Praise at the St. Louis Bertrand Catholic Church, where she has been a devoted member for the past twenty-five years. The members of this honorable body are pleased to join Representative Bob Heleringer in praising his grandmother, Fidelis O'Donnell, on this very special day and extend best wishes for her continued health and happiness. **Legislative Citation No. 27** was adopted without objection.

Representative Stumbo moved that the three day posting requirement be waived on **HB 4**. Agreed.

Announcements

The following meetings were announced:

State Government, 15 minutes upon adjournment, Room 131.

Appropriations and Revenue, upon adjournment, Room 129.

Adjournment

Representative Stumbo moved that the House adjourn until 12 noon, May 22, 1997.

On the roll call the vote was **Yeas 82**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Baugh, Bowling, Brandstetter, Brown, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Worthington, Yonts, Zimmerman. **Nays 3**--Allen, Heleringer, Lile.

The motion to adjourn was adopted.

THURSDAY, MAY 22, 1997

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore L. Clark.

Prayer by Reverend Mark Hopper, First Baptist Church, Frankfort.

The Speaker Pro Tempore led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives J. Arnold, Ballard, Bowling, Bruce, Burch, Clarke, Crall, Crenshaw, Deskins, Heleringer, Lindsay, Miracle, Richards, Simpson, Walton, and Wilkey.

Representative Lee moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Lee moved that the reading of the Journal of May 21, 1997, be dispensed with and the same approved. Agreed.

Representative Lee moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Lee moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 4**, by Representative Siler:

On page 1, line 6 by deleting "***26,021,800***" and inserting in lieu thereof "***28,021,800***"; and

On page 1, line 8 by deleting "***30,006,400***" and inserting in lieu thereof "***32,006,400***"; and

On page 2, after line 1 but before line 2 by inserting the following:

"***Included in the above General Fund Appropriation is $2,000,000 in fiscal year 1997-98 to the adult education and literacy initiative fund. The purpose of the adult education and literacy initiative fund shall be to provide incentive grants to qualified providers to develop innovative approaches to address problems of adult education and literacy in Kentucky, to develop cost-effective delivery systems for adult education and literacy, and to research the effectiveness of different models for providing adult education and literacy programming. Criteria for the incentive grants and the process by which they are awarded shall be developed by the Department for Adult Education and Literacy with the advice of the State Advisory Council for Adult Education and Literacy. The State Board for Adult and Technical Education shall approve the grants to be funded based on the recommendations of the Department for the Adult Education and Literacy.***"; and

On page 13, line 12, by deleting "***835,479,000***" and inserting in lieu thereof "***837,479,000***"; and

On page 13, line 16 by deleting "***2,114,355,600***" and inserting in lieu thereof "***2,116,355,600***".

Representative Weaver moved that the rules be suspended to grant floor privileges to General Groves, General Doyle, Major General Satchwell, Colonel Carpenter, Sergeant Rexroat, Mrs. Rexroat, Major Culver and to act upon a Military Citation. Agreed. Representative Weaver moved that Major Culver be allowed to read the Military Citation. Agreed. Representative Weaver moved that Adjutant General Groves be allowed to briefly address the House. Agreed. Representative Weaver moved that General Doyle be allowed to briefly address the House. Agreed.

Introduction of Resolutions

HR 20, by Representatives Barrows and G. Graham: A RESOLUTION to encourage the President and the United States Congress to re-examine United States foreign policy towards Ethiopia.

HR 21, by Representative Geveden: A RESOLUTION adjourning the House of Representatives in honor of Steven Curtis Chapman.

HR 22, by Representative G. Graham: A RESOLUTION adjourning the House of Representatives in honor of Ann Disney upon the occasion of her imminent retirement.

Representative Ford moved that the rules be suspended to grant floor privileges to former Representative Lawson Walker. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

State Government: **HB 5**

Representative Stumbo moved that the rules be suspended to allow the Committee on State Government to meet upon Recess. Agreed.

Representative Stumbo moved that the rules be suspended to waive the one day posting requirement on **HB 5**. Agreed.

Recess

Representative Stumbo moved that the House recess for a Committee on State Government meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 4** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on State Government reported **HB 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to finance and administration, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 11 of this Act is to create an independent commission that will take a comprehensive view of the Commonwealth's finances and develop policies and strategies that will seek to minimize the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

(1) "Authorized project" means:

(a) Any project approved by the General Assembly and included in an enacted budget; or

(b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;

(2) "Cabinet" means the Finance and Administration Cabinet;

(3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;

(4) "Commission" means the Kentucky Asset/Liability Commission;

(5) "Estimated revenues" means the detailed revenue estimate or revised revenue estimate as certified by the secretary of the finance and administration cabinet pursuant to KRS 48.115 and 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;

(6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;

(7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a

state agency, relating to the funding of projects or items associated with projects as described in subsection (3) of Section 9 of this Act, or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;

(8) "Fixed-rate Obligations" means obligations on which the interest rate remains constant to maturity;

(9) "Funding notes" means notes issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;

(10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;

(11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;

(12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;

(13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(14) "Project notes" means notes issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity of not more than ten (10) years for the purpose of funding authorized projects, which may include bond anticipation notes;

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;

(16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and

(17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer; the secretary of the Revenue Cabinet; and the state budget director, or their alternates as authorized in Section 7 of this Act. The vice chair shall be elected from among the membership.

(2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.

(3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with Sections 1 to 11 of this Act, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with Sections 1 to 11 of this Act.

(5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.

(6) Notes issued pursuant to Sections 1 to 11 of this Act may be sold on a competitive or negotiated sale basis.

SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The Office of Financial Management and Economic Analysis shall serve as staff to the commission. The executive director of the Office of Financial Management and Economic Analysis shall serve as secretary to the commission. The commission shall coordinate with the Office of the Controller to ensure that the necessary financial data is made available.

SECTION 5. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of Sections 1 to 11 of this Act;

(2) Promulgate administrative regulations relating to Sections 1 to 11 of this Act;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under Sections 1 to 11 of this Act to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management and Economic Analysis as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging a portfolio of interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements relating to funding notes, project notes, and tax and revenue anticipation notes into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to tax and revenue anticipation notes, project notes, and funding notes; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

(a) A description of the Commonwealth's investment and debt structure;

(b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth, and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

(c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year;

(d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Tax and revenue anticipation notes, project notes, and funding notes may be variable-rate or fixed-rate obligations issued in the form of commercial paper, fixed-rate obligations, variable-rate demand obligations, multimodal obligations, commercial bank loans, or other commercially-reasonable forms of financing.

SECTION 7. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) Each member of the commission may designate, by an instrument in writing over the member's signature and filed with the commission as a public record, an alternate with full authority to:

(a) Attend in the absence of the appointing member for any reason, any properly-convened meeting of the commission; and

(b) Participate in the consideration of, and voting upon, business and transactions of the commission.

(2) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business;

(b) Be shown on the face of the appointing instrument to be on a continuing basis, but in no case for a period of more than four (4) years, whenever the appointing member is unable to attend;

(c) Be revoked by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission.

(3) Any party transacting business with the commission or materially affected by the commission shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of designation, and if of a continuing nature, whether the designation has been revoked, and when. The joint certificate shall be made and delivered to the party within a reasonable time after written request is made with acceptable identification of the business or transaction referred, and of the requesting party's interest.

(4) Each alternate shall be a person on the staff of the appointing member or shall be in the employ of the appointing member's agency or department of the government of the Commonwealth.

SECTION 8. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) As the receipt of revenues and expenditure demands of a particular fund or account of the Commonwealth render it necessary, the commission may issue tax and revenue anticipation notes to discharge expenditure demands in anticipation of estimated revenues that are required to be deposited in that fund or account during the fiscal year in which the tax and revenue anticipation notes are issued. Tax and revenue anticipation notes may be sold and issued in the manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant. Tax and revenue anticipation notes may be issued in an amount not to exceed seventy-five percent (75%) of the estimated revenues anticipated to be deposited during the fiscal year in the fund or account for which the tax and revenue anticipation notes are being issued. Tax and revenue anticipation notes, together with interest thereon, shall be repaid from revenues required to be deposited in the fund for which the tax and revenue anticipation notes were issued. Revenues to be deposited in that fund or account shall be pledged for the repayment of tax and revenue anticipation notes so long as any tax and revenue anticipation notes remain outstanding. Any lien on and security interest in taxes or revenues that may be created as provided in this section shall be prior and superior to any other lien or security interest created by law or otherwise.

(2) Tax and revenue anticipation notes may be refunded or reissued, in whole or in part.

(3) Notwithstanding any statutory provisions to the contrary, including without limitation KRS 56.870, no approvals beyond those specifically required in this section shall be required for the issuance, sale, and delivery of the tax and revenue anticipation notes.

(4) The commission shall report the issuance of tax and revenue anticipation notes to the Capital Projects and Bond Oversight Committee within thirty (30) days of issuance.

SECTION 9. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The commission may issue and sell project notes for authorized projects upon request by the cabinet. Project notes may be sold and issued in a manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant.

(2) Appropriations requests for payments under the financing agreements on project notes shall be made by the state agency requesting an authorized project unless the payments are to be payable from funds not subject to appropriation. Project notes, together with interest thereon, shall be repaid from payments received by the commission from the cabinet under a financing agreement. The cabinet shall enter into financing agreements with the commission for the issuance of project notes. State agencies requesting funding for an authorized project shall enter into an agreement with the cabinet for the issuance of project notes by the commission for that state agency.

Agreements authorized by this section shall be either financing agreements, or alternative agreements which specify that any payments shall be made from funds that are not subject to appropriation by the General Assembly.

(3) Project notes may be issued for the following purposes:

(a) To pay any or all the costs of an authorized project for any state agency; and

(b) To refund outstanding project notes or other obligations of any state agency.

(4) Project notes shall have a maximum maturity not to exceed one hundred twenty percent (120%) of the expected useful economic life of the project as estimated by the commission, and if more than one (1) project is being financed by the project notes, then the weighted average of the expected useful economic lives shall be used.

(5) The issuance of project notes shall be subject to KRS 56.870, to approval by the State Property and Buildings Commission, and to review by the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810.

(6) Project notes may be refunded, in whole or in part, from the proceeds of bonds or other obligations issued by any state agency authorized to issue bonds or other obligations.

(7) Project notes shall not constitute a debt of the Commonwealth or any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or any political subdivision.

SECTION 10. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The commission may issue and sell funding notes, for the purpose of funding judgments against the Commonwealth or any state agency. Funding notes may be sold and issued in a manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant.

(2) Appropriations requests for payment of principal and interest on funding notes shall be made by the state agency against which a judgment has been rendered. Funding notes, together with interest thereon, shall be repaid from payments received by the commission from the cabinet under a financing agreement.

(3) Funding notes may be issued for the following purposes:

(a) To pay for judgments, which shall include legal settlements, court-ordered actions against the Commonwealth or any state agency, and any part of any expense or cost incidental to legal settlements or court-ordered actions against the Commonwealth or any state agency; and

(b) To refund outstanding issues of funding notes.

(4) The issuance of funding notes shall be subject to KRS 56.870, to approval by the State Property and Buildings Commission, and to review by the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810.

(5) The cabinet, in providing for the expenditure of funds for any of the purposes mentioned in this section, may provide by a financing agreement with the state agency so affected, for the funding of the Commonwealth's or that state agency's judgment, and the state agency so affected is authorized to enter into a financing agreement with the cabinet for that purpose.

(6) Funding notes shall not constitute a debt of the Commonwealth or any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or any political subdivision, but the notes shall be payable solely from payments received under the financing agreement relating to the funding notes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Interest on all funding notes, project notes, and tax and revenue anticipation notes issued by the commission shall be exempt from income taxation and the funding notes, project notes, and tax and revenue anticipation notes shall be exempt from ad valorem taxation by the Commonwealth and its political subdivisions. All funding notes, project notes, and tax and revenue anticipation notes issued pursuant to Sections 1 to 11 of this Act shall be negotiable instruments.

Section 12. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, ***Kentucky Asset/Liability Commission,*** Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, and Eastern Kentucky University;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 13. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University; and
9. Eastern Kentucky University.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) ***Pursuant to KRS 45A.853 and 45A.857, one (1) or more financial advisors, managing underwriters, and remarketing agents and one (1) bond counsel shall be chosen for the Kentucky Asset/Liability Commission. The commission shall enter into agreements with the individuals or entities for a maximum contract period of twenty-four (24) months. At the conclusion of the contract period, the executive director may continue the employment of the financial advisor, underwriter, remarketing agent, or bond counsel for another contract period, not to exceed twenty-four (24) months.***

If the employment is not continued or terminated, the selection of a financial advisor, underwriter, remarketing agent, or bond counsel as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(5) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued;[~~ and~~]

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 14. KRS 27A.210 is amended to read as follows:

(1) The following books and records shall be maintained by the State Law Library:

(a) All copies of Volumes 1 to 77 of the Kentucky Reports;

(b) Twenty-five (25) copies each of Volumes 78 to 314 of the Kentucky Reports;

(c) Two (2) sets of all future publications of the journals and nine (9) sets of the Acts of the General Assembly; and

(d) Two (2) sets of the official Kentucky statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of Congress. When an exchange is agreed upon, the state law librarian shall send to ***the***[~~such~~] officer one (1) copy of the Acts of the General Assembly and one (1) set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes, and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the State Law Library upon concurrence of the administrative assistant to the Chief Justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, [~~such ~~]books and other materials ***the librarian***[~~as he~~] deems suitable for the holdings of the State Law Library.

(6) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, sell ***any***[~~such~~] surplus books in the State Law Library ***that***[~~as~~] have a market value, collect the funds received therefor, and deposit them in the "State Law Library Surplus Books Fund," which is hereby created in the State Treasury. The "State Law Library Surplus Books Fund" shall not lapse. The state law librarian may reinvest ***the***[~~such~~] funds in other books and materials that ***the librarian***[~~he~~] deems suitable for the holdings of the State Law Library. The provisions of KRS 45A.045***(5)***[~~(4)~~] concerning the powers and duties of the Finance and Administration Cabinet shall not apply to sales made by the state law librarian ***under this section***[~~hereunder~~].

(7) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, offer and provide technical and other assistance to county law libraries and to other publicly funded law libraries.

(8) The state law librarian may, upon the request of a county law library or other publicly funded law library and with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, purchase books, supplies, or other materials for ***the***[~~such~~] library. The funds used for ***these***[~~such~~] purposes shall be those of the county law library or other publicly funded law library.

(9) The state law librarian shall issue, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, regulations for the operation, management, and lending policy of the State Law Library.

Section 15. KRS 42.025 is amended to read as follows:

(1) The Division of Printing shall be responsible for the printing and duplicating needs of state agencies, as ***designated by the Finance and Administration Cabinet***[~~provided by KRS Chapters 45A and 57. The division shall include printing consultants to advise and assist state agencies in advance planning on an annual basis of their printing needs and a forms control unit to review the requirements of state agencies for various kinds of forms and to advise and assist state agencies in forms control, development and revisions~~].

(2) The Division of Postal Services shall operate the centralized postal services for executive branch agencies as set forth in KRS 12.020. The division shall operate at a central location with additional locations necessary to maintain and improve

service levels.

Section 16. KRS 45.101 is amended to read as follows:

(1) Except as otherwise provided by law, each state officer or employee who is authorized by law to receive, from corporations or from the State Treasury or from any fund appropriated out of the State Treasury,[~~ his~~] traveling or other expenses incident to the discharge of[~~ his~~] official duties, shall submit to the Finance and Administration Cabinet ***information regarding the expenses and necessary receipts as provided by administrative regulation promulgated by the Finance and Administration Cabinet***[~~an itemized statement of such expenses, accompanied by a receipt for each item of expense in excess of two dollars ($2)~~], before the cabinet shall audit or pay ***the***[~~such~~] expenses. The Finance and Administration Cabinet may rely on a preaudit performed by the budget unit as a basis for issuing a warrant.

(2) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit budget units to contract with airlines, railroads, hotels, or other companies for services to a group of their employees while on official travel status. ***The***[~~Such~~] expenses are to be submitted to the Finance and Administration Cabinet on forms prescribed by the Finance and Administration Cabinet before the cabinet shall audit or pay ***the***[~~such~~] expenses.

(3) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit state officers or employees to assign their claim for reimbursement of travel expenses to airline, railroad, hotel, or other companies in payment of services rendered as provided for in ***subsections (1) and***[~~subsection~~] (2) of this section[~~ and as shown on the itemized statement and receipts as provided for in subsection (1) of this section, which statements and receipts shall indicate that such company has extended credit to said officer or employee in the name of the state and incident to the discharge of his official duties~~].

(4) Each state officer or employee who by reason of the duties assigned to ***the officer or employee's***[~~his~~] office is required to be at the state capital for the majority of the time, or who has an office located at the state capital, shall not be permitted to charge for expenses except from the state capital to the place where the business ***the officer or employee***[~~he~~] is transacting is to be transacted, and from that place back to the state capital, and each officer or employee who is assigned to duty at some place other than the state capital shall only be permitted to charge to the state such expenses as are incurred in going from that place to the place where the business is transacted, and returning. Expenses in going from the state capital or the place where the officer or employee is assigned to duty to the officer's or employee's real place of residence, or in return therefrom, shall not be allowed unless it is shown that it was necessary for ***the officer or employee***[~~him~~] to make the trip in the discharge of business for the state.

(5) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit the payment of travel and other expenses incidental to the official activities of formally organized groups sponsored by or otherwise representing state agencies. The payment may be made direct to service establishments in the manner set forth in subsection (3) of this section, by an inter-account bill between budget units, or by reimbursement to the official or other employee who has been designated as the officer-in-charge of the organized group. If it is necessary that one (1) or more state employees or officials travel with the group, their expenses may be included in the total expenses for the group.

(6) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations allowing heads of budget units to establish imprest cash funds for reimbursement of travel expenses.

(7) Except as provided in KRS Chapter 6, but the provisions of any other laws to the contrary notwithstanding, and in lieu of the reimbursement of travel and other incidental expenses authorized by subsection (1) of this section, the Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to provide for the payment of a fixed expense allowance per day to be established by the secretary of ***the Finance and Administration Cabinet***[~~said cabinet~~], plus necessary travel expenses, to each state officer or employee who is authorized by law to be reimbursed for expenses incurred in the discharge of[~~ his~~] official duties. This payment shall be made from an appropriation for this purpose to a budget unit of a branch of government.

Section 17. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all ***information technology standards, system attributes, and components***[~~forms~~] to be used in, or in conjunction with, the unified accounting system***. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided in KRS 61.950***.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate[~~ in writing~~] the officer or employee authorized to ***approve***[~~sign~~] advices of employment,[~~ copies of~~] purchase orders and contracts, and requisitions for reservation of funds, and no[~~ such~~] advice, order, contract, or requisition shall be honored as a commitment statement unless the designation ***has been conveyed to***[~~, with a copy of the signature of the officer or employee designated, is on file in the office of~~] the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure [~~document~~] presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 18. KRS 45.306 is amended to read as follows:

The Finance and Administration Cabinet shall examine all ***formats***[~~blank forms~~] used or proposed for use by any budget unit for the purposes specified in this section, and shall design or redesign them with a view to providing for the simplification, unification, and integration of financial and business administrative records and procedures.[~~ The Finance and Administration Cabinet shall also prescribe, and enforce adherence to, standard sizes, colors, and designs of forms, including styles of type and qualities and grades of paper.~~] This section shall apply to all ***financial and nonfinancial electronic commerce standards to ensure consistent internal control and system integration in accordance with Commonwealth information technology architecture***[~~forms~~] for use in accounting, preauditing, State Treasury administration, personnel administration, purchasing, property control, and other matters of financial and business administration of the state or any budget unit thereof, with the exception of uniform forms for use in the preparation of budget estimates, requests, and recommendations provided for by KRS 48.040.

Section 19. KRS 45.310 is amended to read as follows:

The Finance and Administration Cabinet shall keep an accurate ***record***[~~account, in books,~~] of all warrants and certificates drawn or issued by the cabinet, showing in due succession the date, number, and amount of each warrant, and for what and to whom issued. The cabinet shall also keep a ***record of***[~~book in which shall be entered~~] all receipts[~~ by the State Treasurer for money~~] paid into the State Treasury.

Section 20. KRS 45.313 is amended to read as follows:

Each budget unit shall maintain a current inventory of equipment ***as provided by administrative regulation promulgated by the Finance and Administration Cabinet***[~~having an original cost of one hundred dollars ($100) or more and all supplies~~]. ***The***[~~Such~~] inventory[~~ of supplies and equipment~~] shall be available for examination by the Finance and Administration Cabinet at all times.[~~ A copy of the inventory of each budget unit shall be filed with the Finance and Administration Cabinet as of June 30 of each year.~~]

Section 21. KRS 45.453 is amended to read as follows:

All bills shall be paid within thirty (30) working days of receipt of ***goods and services or*** a vendor's invoice except when[~~ payment is delayed because~~] the purchasing agency has ***transmitted a rejection notice to***[~~made a written disapproval of improper performances or improper invoicing by~~] the vendor[~~ or by the vendor's subcontractor~~].

Section 22. KRS 45.455 is amended to read as follows:

A purchasing agency shall transmit ***authorization for payment***[~~a vendor's approved invoice with required~~] documentation to the Finance and Administration Cabinet within ten (10) working days of receipt of ***goods or services or*** the ***vendor's*** invoice by the purchasing agency.

Section 23. KRS 45.456 is amended to read as follows:

The Finance and Administration Cabinet shall transmit a warrant for payment to the ***State Treasurer***[~~Department of the Treasury~~] within ten (10) working days of receipt of ***the authorization for payment documentation from the***[~~a vendor's approved invoice by the Finance and Administration Cabinet from a~~] purchasing agency. ***When***[~~In those cases in which~~] the Finance and Administration Cabinet is the purchasing agency, the cabinet shall transmit a warrant for payment to the ***State Treasurer***[~~Department of the Treasury~~] within twenty (20) working days of receipt of ***the authorization for payment documentation***[~~a vendor's approved invoice~~].

Section 24. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

(a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration

Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

(b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(c) The Finance and Administration Cabinet shall attempt in every practicable way to ***ensure***[~~insure~~] that state agencies are ***fulfilling their business needs through the application of the best value criteria***[~~acquiring their real needs at the lowest possible cost~~].

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures, and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general ***administrative*** regulations ***promulgated***[~~prescribed~~] by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of[~~ all property (including~~] any interest in real property[~~)~~] of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any[~~ such~~] real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all[~~ such property (including any~~] interests in real property[~~)~~] shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for ***the***[~~such~~] requirements of that cabinet.

(5) ***The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Purchases, Surplus Property Branch, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.***

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall ***promulgate administrative***[~~adopt~~] regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7)[~~(6)~~] The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8)[~~(7)~~] Nothing in this section shall ***prevent***[~~deprive~~] the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(9)[~~(8)~~] Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself ***or herself,*** through any other person influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10)[~~(9)~~] The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11)[~~(10)~~] For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;

(b) A package system commonly referred to as "turnkey";

(c) Phase bidding commonly referred to as "fast track"; or

(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12)[~~(11)~~] The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in this code, and shall ***promulgate administrative regulations to*** designate[~~ by regulation~~] the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 25. KRS 45A.050 is amended to read as follows:

(1) Except as provided in KRS 45A.800 to 45A.835 and KRS Chapters 175, 176, 177, and 180, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any state agency under the several statutes relating thereto, are hereby transferred to the secretary of the Finance and Administration Cabinet as provided in this code, subject to the provisions of subsection (2) of this section.

(2) Unless otherwise ordered by the secretary of the Finance and Administration Cabinet, the acquisition of the following shall not be required through the Finance and Administration Cabinet:

(a) Works of art for museum and public display;

(b) Published books, maps, periodicals, and technical pamphlets; and

(c) Services of visiting speakers, professors, and performing artists.

(3) The Finance and Administration Cabinet shall include in all state agency price contracts for the purchase of materials or supplies a provision that, as approved by the secretary of the Finance and Administration Cabinet, any political subdivision, including cities of all classes, counties, school districts, or special districts, may participate in such contracts to the same extent as the Commonwealth. Any political subdivision may purchase materials and supplies pursuant to a contract for such supplies and materials entered into by the Finance and Administration Cabinet for the Commonwealth, including those contracts negotiated by the cabinet with vendors who maintain a general service administration price

agreement as provided in subsection ***(8)***[~~(7)~~] of KRS 45A.045. Political subdivisions of the Commonwealth must comply with other provisions of the Kentucky Revised Statutes which require purchase by competitive bidding, before participating in the contract, unless the state contract has been let by competitive bidding, or the contract was negotiated as provided in subsection ***(8)***[~~(7)~~] of KRS 45A.045.

(4) The Finance and Administration Cabinet shall inform the Department of Local Government, which shall then inform the appropriate purchasing agent of each political subdivision, interested in participating under this section, of all state agency contracts in effect between the Commonwealth and vendors.

(5) The secretary of the Finance and Administration Cabinet shall promulgate ***administrative***[~~the rules and~~] regulations necessary for the implementation of this section and necessary to provide that the Commonwealth be reimbursed for any additional expenses incurred by the Commonwealth in allowing political subdivisions to participate in contracts with vendors.

(6) The Finance and Administration Cabinet shall comply with all provisions relating to the methods of purchasing in the Kentucky Revised Statutes. This section is not intended to repeal or otherwise affect any provision of the Kentucky Revised Statutes regarding purchasing methods of the Finance and Administration Cabinet.

Section 26. KRS 45A.070 is amended to read as follows:

As used in KRS 45A.070 to 45A.165, unless the context in which they are used clearly requires a different meaning:

(1) "Cost-reimbursement contract" ***means***[~~shall mean~~] a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles [~~(~~]as provided in KRS 45A.215[~~)~~], and a fee, if any.

(2) "Established catalogue price" ***means***[~~shall mean~~] the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(3) "***Best value" means a procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth. These decisions shall be based on objective and quantifiable criteria that shall include price and that have been communicated to the offerors.***[~~Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to measurable criteria, set forth in the invitation for bids:~~

~~(a) Including, but not limited to, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose;~~

~~(b) Which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, and residual value; and~~

~~(c) Which shall be used to determine acceptability.~~]

(4) "Invitation for bids" ***means***[~~shall mean~~] all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.080 of this code.

(5) "Request for proposals" ***means***[~~shall mean~~] all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.085, 45A.090, 45A.095 or 45A.100.

(6) "Responsible bidder or offeror" ***means***[~~shall mean~~] a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) "Responsive bidder" ***means***[~~shall mean~~] a person who has submitted a bid under KRS 45A.080 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

Section 27. KRS 45A.080 is amended to read as follows:

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(a) Specifications can be prepared that permit award on the basis of ***best value***[~~either the lowest bid price or the lowest evaluated bid price~~]; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state ***that awards***[~~whether award~~] shall be made on the basis of ***best value***[~~the lowest bid~~

~~price or the lowest evaluated bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids~~].

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth[~~ therein~~] for the opening of bids. The notice ***may***[~~shall~~] include publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet for all price contracts and purchase contracts estimated to exceed twenty-five thousand dollars ($25,000) not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection.

(5) The contract shall be awarded[~~ with reasonable promptness~~] by written notice to the responsive and responsible bidder whose bid ***offers the best value***[~~is either the lowest bid price or lowest evaluated bid price~~].

(6) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the secretary.

Section 28. KRS 45A.085 is amended to read as follows:

(1) When, under ***administrative*** regulations ***promulgated***[~~issued~~] by the secretary, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts may be competitively negotiated when it is determined in writing by the purchasing officer that the ***bids***[~~bid prices~~] received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which[~~:~~

~~(a)~~] each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate[~~; and~~

~~(b) The negotiated price is lower than the lowest rejected bid by any competitive bidder; and~~

~~(c) The negotiated price is the lowest negotiated price offered by any competitive offeror~~].

(4) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(6) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where ***the***[~~such~~] prices are fixed by law or ***administrative*** regulation, except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or[~~ accurate~~] prior[~~ cost~~] experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable ***best value procurement***[~~prices~~], and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 29. KRS 45A.090 is amended to read as follows:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the[~~ lowest~~] responsive and responsible bidder ***whose bid offers the best value***; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080, then a negotiated award may be made as set forth in subsections (2) or (3) of this section:

(2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS 45A.085 shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the ***most***[~~lowest~~] responsive and responsible bidders***, based on criteria contained in the***[~~ to the competitive sealed~~] bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of ***best value***[~~the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror~~].

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Section 30. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under ***administrative*** regulations ***promulgated***[~~issued~~] by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the ***best value***[~~lowest acceptable quotation~~]. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists; and

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer, may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations, and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 31. KRS 45A.300 is amended to read as follows:

(1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. ***This***[~~Such~~] cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

(2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.165.

(3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045***(5)***[~~(4)~~] and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

(4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the

lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to ***the***[~~such~~] terms as may be agreed upon between the parties.

(5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars ($2,500).

(6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

Section 32. KRS 45A.660 is amended to read as follows:

The Finance and Administration Cabinet may, for satisfactory reason consistent with its responsibility to attempt in every practical way to ***ensure***[~~insure~~] that state agencies are acquiring their real needs ***through the application of best value criteria***[~~at the lowest possible cost or to the best advantage of the state~~], waive any requirements of this code in instances where purchases are made by the Commonwealth of Kentucky or any agency thereof from the federal government or any agency thereof or from any other state government or any agency thereof.

Section 33. KRS 45A.695 is amended to read as follows:

(1) No one shall begin work on a personal service contract made by any contracting body except as provided in subsection (8) of this section, until after ***a copy***[~~three (3) copies~~] of the personal service contract ***is***[~~are~~] filed with the Legislative Research Commission. Each service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each copy of a proposed personal service contract submitted to the Legislative Research Commission shall be accompanied by documentation of:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service; and

(c) In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3).

(3) Adequate notice of the need for the services shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or a designee of the officer may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or a designee of the officer, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals, and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors, in the order of their respective qualification ranking. In this case the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of ***the***[~~such~~] officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing[~~ thereof~~] and shall maintain a file of[~~ such~~] personal service contracts for public inspection, with suitable indexes.

(7) Payment on contracts submitted to the subcommittee shall not be made before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary.

(8) In the event of a governmental emergency, work may begin prior to filing ***a copy***[~~three (3) copies~~] of the personal service contract with the Legislative Research Commission providing that the normal process will not accommodate the

emergency.

(9) If an emergency exists and work is authorized to begin immediately, ***a copy***[~~three (3) copies~~] of a statement, approved by the secretary of the Finance and Administration Cabinet, setting forth in detail the nature of the emergency shall be filed with the ***copy***[~~three (3) copies~~] of the personal service contract.

Section 34. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts on which the estimated cost does not exceed ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] shall be exempt from review by the subcommittee. Personal service contracts of ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] or less shall be filed with the subcommittee prior to their effective date pursuant to KRS 45A.695 for informational purposes. The subcommittee shall periodically examine the informational copies of personal service contracts of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] and payment of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] for personal services and may request agency participation in discussions relative to their contracts or payments.

(2) All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates. If a personal service contract of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] is amended to the extent the amended total of the contract exceeds ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] per calendar year, the amended contract shall be placed on the agenda for the subcommittee's review.

Section 35. KRS 56.782 is amended to read as follows:

The Finance and Administration Cabinet shall report on or before October 15 in odd-numbered years to the Legislative Research Commission on progress made to maximize the use of energy efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include, but not be limited to:

(1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy efficiency measures, including employee training efforts;

(2) A summary of energy efficiency measures installed and energy improvements made during the reporting period;

(3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy efficiency measures and improvements;

(4) Status report on efforts to assure buildings newly constructed, renovated, or leased are energy-efficient;

(5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045***(12)***[~~(11)~~]; and

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government.

Section 36. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector.

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. ***In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have***

access and use the contract on the same terms as agencies of the Commonwealth of Kentucky.

Section 37. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman, the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor, the secretary of the Finance and Administration Cabinet, and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his ***or her*** signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:

(a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and

(b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

(5) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;

(b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or

(c) Be revoked at any time by the appointing member in an instrument in writing, over his ***or her*** signature, filed with the secretary of the commission as a public record of the commission.

(6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.

(7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.

(8) The provisions of KRS 61.070 shall not apply to members of the commission.

(9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a U.S. government agency, including but not limited to:

1. U.S. Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(b) Obligations of any corporation of the U.S. government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
    a. Bank for Cooperatives;
    b. Federal Intermediate Credit Banks;
    c. Federal Land Banks;
3. Federal Home Loan Banks;
4. Federal National Mortgage Association; and
5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;~~[and]~~

(g) ***United States denominated corporate, Yankee, and Eurodollar securities issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;***

(h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and

(i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended; and
2. The management company of the investment company shall have been in operation for at least five (5) years; and
3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section.

(10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds and the regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments; and

(e) The acceptable maturity of investments.

(11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.

(12) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed. Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts, shall accrue to the capital construction investment income account. If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130 the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.

(13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the ***administrative*** regulations mandated by KRS 42.525.

(15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Section 38. KRS 42.525 is amended to read as follows:

(1) The State Investment Commission shall ***promulgate administrative***~~[adopt]~~ regulations~~[, no later than January 1, 1983,]~~ for the investment and reinvestment of state funds and the acquisition, retention, management, and disposition of investments.

(2) The regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments;

(e) ~~[Minimum interest rates for funds invested long and short term;~~

~~(f)~~]The acceptable maturity of investments;

~~[(g) The investment procedure with respect to in-state and out-of-state depositories provided that funds available for investment shall be offered first to qualified Kentucky depositories consistent with the investment guidelines;]~~ and

(f)~~[(h)]~~ The distribution method of funds among types of institutions.

Section 39. KRS 42.535 is amended to read as follows:

Each agency holding funds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed by the listed funds during each fiscal year, on or before the ***fifteenth***~~[15th]~~ of July, showing the receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each listed fund to the ***Office of the Controller***~~[State Investment Commission]~~. The funds which shall be reported are:

(1) The county sinking fund;

(2) Tobacco research trust fund;

(3) The uninsured employers' fund;

(4) The administrative fund created by KRS 342.440, also known as the workers' compensation maintenance fund;

(5) The special claim fund; ***and***

(6) The common school fund.

Section 40. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, and the State Fair Board shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the ***Office of the Controller***~~[State Investment Commission]~~. ***These***~~[Such]~~ fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 41. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the ***fifteenth***~~[15th]~~ of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the ***Office of the Controller***~~[State Investment Commission]~~. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings

Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 42. KRS 42.550 is amended to read as follows:

The Department of Education shall make a report according to generally accepted accounting principles of all money received and disbursed from the common school fund and the Support Education Excellence in Kentucky (SEEK) Program, to local school districts showing their receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each fund to the ***Office of the Controller***[~~State Investment Commission~~] for each fiscal year on or before the ***fifteenth***[~~15th~~] of July.

Section 43. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management and Economic Analysis established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to ***41.375***[~~41.390~~] and ***KRS*** 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The evaluation of revenue projections relative to proposed revenue bond issues;

(f) The performance of the cabinet's revenue estimating and economic analysis functions and responsibilities, including, but not limited to, those functions and responsibilities assigned to the cabinet by KRS 48.120;

(g) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;

(h) The tax administrative function of utilizing tax data to provide the Revenue Cabinet with studies, projections, statistical analyses, and any other information that will assist the Revenue Cabinet in performing its tax administrative functions; and

(i) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.

(2) The Office of Financial Management and Economic Analysis shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management and Economic Analysis shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The Office of Financial Management and Economic Analysis shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund

account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 44. KRS 56.782 is amended to read as follows:

The Finance and Administration Cabinet shall report on or before October 15 in odd-numbered years to the Legislative Research Commission on progress made to maximize the use of energy efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include, but not be limited to:

(1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy efficiency measures, including employee training efforts;

(2) A summary of energy efficiency measures installed and energy improvements made during the reporting period;

(3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy efficiency measures and improvements;

(4) Status report on efforts to assure buildings newly constructed, renovated, or leased are energy-efficient;

(5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045***(12)***[~~(11)~~]; and

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government.

Section 45. The following KRS sections are repealed:

41.390 Power to borrow money and issue negotiable notes.

42.515 Investments to be offered first to Kentucky depositories.

45A.710 Personal service contracts for advertising, promotional, or public relations services.

57.031 State printing under control of Finance and Administration Cabinet -- Qualifications of buyer.

57.041 Requisitions for printing.

57.051 Printing specifications.

57.061 Advertisement for bids.

57.071 Bond of bidders -- Condition.

57.081 Restraint of competitive bidding.

57.111 Paper furnished by the printer -- Bills for paper or stationery -- Form.

57.121 Rejection of work -- Reprinting.

57.131 Title to plates and art work.
57.141 Cancellation of contract -- Grounds.
57.280 Biennial report of the Finance and Administration Cabinet to General Assembly.

Section 46. Whereas it is in the best interests of the Commonwealth to implement cost-saving and efficiency related measures as expediently as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Representative Marzian moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 23, by Representatives Marzian, Stein, Horlander, Jenkins, Johns, L. Clark, Lile, Bratcher, Wayne, Jordan, P. Clark: A RESOLUTION regarding potential merger of Louisville Gas and Electric and Kentucky Utilities Energy Corporation.

Representative Marzian moved the adoption of the following **HR 23**:

HR 23, A RESOLUTION regarding the potential merger of Louisville Gas and Electric and Kentucky Utilities Energy Corporation.

WHEREAS, the merger between LG&E Energy Corporation and Kentucky Utilities Energy Corporation is driven by a shared vision of the future of the energy industry and of the considerations that change is occurring and that consolidation is necessary for both Kentucky Utilities Company and Louisville Gas and Electric Company to be successful in the future; and

WHEREAS, KU Energy Corporation and LG&E Energy Corporation are Kentucky corporations that have a long and distinguished reputation for providing energy services for the citizens of the Commonwealth of Kentucky; and

WHEREAS, LG&E Energy Corporation and KU Energy Corporation desire to merge in order to maintain a Kentucky-headquartered Fortune 500 company that is well positioned to serve the energy needs of the citizens of the Commonwealth in an increasingly competitive energy industry; and

WHEREAS, this combination will bring together two of the industry's top quality, low cost, financially solid utility companies to form one of the lowest cost utility holding companies in the United States; and

WHEREAS, under the plan proposed by the companies, not only will Kentucky customers of KU Energy and LG&E Energy continue to enjoy their current low energy costs, but the combination will drive customers' rates even lower over the foreseeable future; and

WHEREAS, economic development efforts are further strengthened by assuring lower cost energy for the foreseeable future, thus allowing Kentucky to attract a greater share of new and relocating companies while spurring growth in our existing industries; and

WHEREAS, Kentucky coal remains the primary fuel source for the generation units belonging to both companies that will be a part of LG&E Energy Corporation, whose coal purchases will exceed 13 million tons annually; and

WHEREAS, it is the policy of this Commonwealth to preserve Kentucky-based corporations for the benefit of our Commonwealth; and

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body expresses its pleasure that two companies, born and bred in our Commonwealth, are staying in Kentucky.

Section 2. This honorable body hereby requests the Kentucky Public Service Commission and the Federal Energy Regulatory Commission to timely consider and expeditiously approve the merger of these two fine companies so that the citizens of our Commonwealth may enjoy the benefits of this combination as soon as possible.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to the Chairman of the Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602; and to the Chairman of the Federal Energy Regulatory Commission, 888 First Street, N.E., Suite 11A, Washington, D.C. 20426.

There being no objection **HR 23** was adopted.

Representative G. Graham moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 34**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Ann B. Disney on the occasion of her retirement from the Kentucky Legislative Research Commission, following over twenty-two years of dedicated service. This outstanding employee will be truly missed by all of her colleagues and friends. We applaud the lengthy service and the compassionate nature of Ann B. Disney, and we send our best wishes for a long and enjoyable retirement to this most valued employee. **Legislative Citation No. 34** was adopted without objection.

Representative Nunn moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Nunn moved the adoption of the following **HR 19**:

HR 19, A RESOLUTION in honor of Kentucky's new Poet Laureate, Ms. Joy Bale Boone.

WHEREAS, from time to time a beautiful soul appears in our midst and graces us with an exquisite gift of art, the gift of poetry; and

WHEREAS, Joy Bale Boone, a native of Illinois, came to Kentucky sixty-one years ago, and from that time forward has worked tirelessly to bring the joy of poetry to the citizens of the Commonwealth; and

WHEREAS, for decades, Joy Bale Boone's passion for poetry has led her down many paths--as poet, advocate, and editor, beginning with the publishing of her first anthology of Kentucky poetry, which sold out in six weeks; and

WHEREAS, after the publishing of her second anthology of Kentucky poetry, Joy Bale Boone founded "Approaches", a literary magazine for contemporary Kentucky poetry; and

WHEREAS, for twelve years Ms. Boone served as the editor of "Approaches", later called the "Kentucky Poetry Review", and said of the publication after its close that it probably awakened a few minds, and perhaps led to the current proliferation of literary publications in Kentucky; and

WHEREAS, Boone's published works include the collections, "never less than love" (1972) and "The Storm's Eye: A Narrative in Verse Celebrating Cassius Marcellus Clay, Man of Freedom, 1810-1903" (1974); and

WHEREAS, Joy Bale Boone is an example to us all, exalting through her art the gift of life and the beauty and joy within it;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hereby honors and congratulates Ms. Joy Bale Boone on her appointment as Kentucky Poet Laureate.

Section 2. When the House of Representatives adjourns this day, it does so with great pleasure in honoring one of the great and inspirational members of our Commonwealth, Poet Laureate Joy Bale Boone.

Section 3. The Clerk of the House of Representaives is hereby directed to transmit a copy of this Resolution to Ms. Joy Bale Boone.

There being no objection **HR 19** was adopted.

Representative Nunn moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Nunn moved the adoption of the following **Legislative Citation No. 31**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Joy Bale Boone upon her selection as Poet Laureate of Kentucky. In joyful acknowledgment of this highest honor, the entire membership commends Joy Bale Boone, a one-time resident of Elkton, presently living in Glasgow, Kentucky, for her dedication to enhancing the literary life and promulgating the abundant poetry of her adopted state. A poet, advocate and editor, said recipient has been appointed Poet Laureate for 1997 to 1999 by Governor Paul Patton in recognition of her concerted efforts for over half a century to create, edit, publish and anthologize contemporary verse written by the people of the Bluegrass State. This venerable body joins Representative Sheldon Baugh & Representative Stephen R. Nunn in applauding the perseverance and creativity of this founder and editor of the Kentucky Poetry Review, for whom poetry is said to be the very pulse of her life. **Legislative Citation No. 31** was adopted without objection.

Representative A. Arnold moved that the rules be suspended to act upon a Resolution. Agreed.

Representative A. Arnold moved the adoption of the following **HR 18**:

HR 18, A RESOLUTION to support excluding election officials and election workers from Form W-2 filing requirements under Section 6051 of the Internal Revenue Code of 1986.

WHEREAS, remuneration for election officials and election workers is not subject to any federal income tax withholding; and

WHEREAS, while an exclusion would be revenue neutral for the federal government, the lack of the exclusion is another federal unfunded mandate that costs Kentucky counties highly; and

WHEREAS, an exclusion from Form W-2 filing requirements would apply only to an amount paid as remuneration for services performed as an election official or election worker if such remuneration is not subject to tax under Chapter 21 (relating to Federal Insurance Contribution Act); and

WHEREAS, election workers and election officials have historically reported remuneration for services on the Form 1040 as other income; and

WHEREAS, issuing Forms W-2 to election officials and election workers (adding them to the local government payroll system) subsequently requires issuance of Forms W-4, I-9 and other paperwork, thus becoming another administrative burden to Kentucky county governments; and

WHEREAS, issuing Forms W-2 to election officials and election workers increases the number of Forms W-2 filed by many Kentucky counties beyond the 250 count level, requiring the Kentucky counties to install expensive electronic filing procedures;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. It is the sense of the House of Representatives of the Commonwealth of Kentucky that election officials and election workers should be excluded from Form W-2 filing requirements under Section 6051 of the Internal Revenue Code of 1986.

Section 2. The Clerk of the House of Representatives is hereby directed to forward copies of this Resolution to the Honorable Bill Clinton, President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Wendell H. Ford, 173A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Mitch McConnell, 361A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Ed Whitfield, 236 Cannon House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 412 Cannon House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 1004 Longworth Office Building, Washington, D.C. 20515 the Honorable Jim Bunning, 2437 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2468 Rayburn House Office Building, Washington, D.C. 20515; and the Honorable Scotty Baesler, 113 Cannon House Office Building, Washington, D.C. 20515.

There being no objection **HR 18** was adopted.

Representative Baugh moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved that the rules be suspended to recommit **HB 5** to State Government. Agreed

Representative Stumbo moved that the rules be suspended to recommit **HB 4** to Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended to allow the Committee on Rules to meet upon recess. Agreed.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Representative Baugh moved the adoption of the following **Legislative Citation No. 33**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Brenda G. Baugh in recognition of her 53rd Birthday. In recognition of this memorable event, the entire membership is pleased to join Representative Sheldon Baugh in commending his wife, Brenda G. Baugh, for her devoted support and companionship. In extending our best wishes on this memorable occasion of her birthday, this distinguished body wishes this avid gardener, inveterate traveler, skilled craftswoman, eclectic collector of glassware and loving grandmother continued vitality, health and happiness. **Legislative Citation No. 33** was adopted without objection.

Representative Geveden filed a request to have his name added as a co-sponsor of **HB 5** under rules previously suspended.

Orders of the Day

HJR 6 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HJR 6** be adopted.

On the roll call the vote was: Yeas 71 , Nays 0 (See May 22 , 1997 roll call on **HJR 6** - Appendix)

HJR 6 was adopted and the title agreed to.

Motions, Petitions and Communications

Representative Nunn moved that the rules be suspended to allow floor privileges to Joy Bale Boone. Agreed.

Announcements

The following meetings were announced:

Subcommittee on General Government, Room 111, upon adjournment.

Appropriations and Revenue, Room 129, 2:00 p.m.

State Government, Room 131, 1:30 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, May 23, 1997.

On the roll call the vote was **Yeas 72**–J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Barrows, Baugh, Bratcher, Brown, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Riggs, Riner, Scott, Siler, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Worthington, Zimmerman. **Nays 4**--Lile, Nesler, Nunn, Stewart.

The motion to adjourn was adopted.

FRIDAY, MAY 23, 1997

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Alexander, J. Arnold, Baugh, Bowling, Brandstetter, D. Butler, Clarke, Cox, Crall, Deskins, Geveden, Hatcher, Heleringer, Lindsay, Marzian, Nunn, Rasche, Riggs, Stacy, Treesh, and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 22, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 2 to **HB 4**, by Representative Siler:

On page 10, line 24 by deleting "*4*" and inserting in lieu thereof "*5*"; and

on page 22, after line 2 but before line 3 by inserting the following:

"Section 4. 1996 Kentucky Acts Chapter 380, at pages 1912 and 1913 is amended to read as follows:

P. CABINET FOR WORKFORCE DEVELOPMENT

91. ADULT EDUCATION AND LITERACY

		1996-97	1997-98
General Fund		***10,090,300***	***12,051,700***
~~[General Fund~~		~~10,090,300~~	~~10,051,700]~~
Restricted Funds		871,100	875,600
Federal Funds		5,763,100	5,763,100
Total		***16,724,500***	***18,690,400***
~~[Total~~	~~16,724,500~~	~~16,690,400]~~	

Included in the above General Fund Appropriation is $2,000,000 in fiscal year 1997-98 to the adult education and literacy initiative fund. The purpose of the adult education and literacy initiative fund shall be to provide incentive grants to qualified providers to develop innovative approaches to address problems of adult education and literacy in Kentucky, to develop cost-effective delivery systems for adult education and literacy, and to research the effectiveness of different models for providing adult education and literacy programming. Criteria for the incentive grants and the process by which they are awarded shall be developed by the Department for Adult Education and Literacy with the advice of the State Advisory Council for Adult Education and Literacy. The State Board for Adult and Technical Education shall approve the grants to be funded based on the recommendations of the Department for Adult Education and Literacy.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	1996-97	1997-98
General Fund	***104,533,400***	***109,596,800***
~~[General Fund~~	~~104,553,400~~	~~107,596,800]~~
Restricted Funds	52,881,500	54,593,600
Federal Funds	362,776,300	364,615,300
TOTAL	***520,211,200***	***528,805,700***
~~[TOTAL~~	~~520,211,200~~	~~526,805,700]~~

"; and

on page 22, line 3 by deleting "4" and inserting in lieu thereof "5"; and
on page 22, line 23, by deleting "5" and inserting in lieu thereof "6"; and
on page 23, line 1 by deleting "6" and inserting in lieu thereof "7"; and
on page 23, line 6 by deleting "7" and inserting in lieu thereof "8"; and
on page 23, line 9 by deleting "8: and inserting in lieu thereof "9".

Introduction of Resolutions

HR 24, by Representative Callahan: A RESOLUTION adjourning the House on May 23, 1997, in honor of Newport Central Catholic Softball Team.

HR 25, by Representative Lile: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Frederic A. Butterworth.

Report of Committees

The Committee on State Government reported **HB 5**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute to **HB 5** is as follows:

HB 5, AN ACT relating to finance and administration, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 11 of this Act is to create an independent commission that will take a comprehensive view of the Commonwealth's finances and develop policies and strategies that will seek to minimize the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

(1) "Authorized project" means:

(a) Any project approved by the General Assembly and included in an enacted budget; or

(b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;

(2) "Cabinet" means the Finance and Administration Cabinet;

(3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;

(4) "Commission" means the Kentucky Asset/Liability Commission;

(5) "Estimated revenues" means the detailed revenue estimate or revised revenue estimate as certified by the secretary of the finance and administration cabinet pursuant to KRS 48.115 and 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;

(6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;

(7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a state agency, relating to the funding of projects or items associated with projects as described in subsection (3) of Section 9 of this Act, or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;

(8) "Fixed-rate Obligations" means obligations on which the interest rate remains constant to maturity;

(9) "Funding notes" means notes issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;

(10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;

(11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;

(12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;

(13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(14) "Project notes" means notes issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity of not more than ten (10) years for the purpose of funding authorized projects, which may include bond anticipation notes;

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;

(16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and

(17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer; the secretary of the Revenue Cabinet; and the state budget director, or their alternates as authorized in Section 7 of this Act. The vice chair shall be elected from among the membership.

(2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.

(3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with Sections 1 to 11 of this Act, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with Sections 1 to 11 of this Act.

(5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.

(6) Notes issued pursuant to Sections 1 to 11 of this Act may be sold on a competitive or negotiated sale basis.

SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The Office of Financial Management and Economic Analysis shall serve as staff to the commission. The executive director of the Office of Financial Management and Economic Analysis shall serve as secretary to the commission. The commission shall coordinate with the Office of the Controller to ensure that the necessary financial data is made available.

SECTION 5. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of Sections 1 to 11 of this Act;

(2) Promulgate administrative regulations relating to Sections 1 to 11 of this Act;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth,

fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under Sections 1 to 11 of this Act to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management and Economic Analysis as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging a portfolio of interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements relating to funding notes, project notes, and tax and revenue anticipation notes into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to tax and revenue anticipation notes, project notes, and funding notes; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

  (a) A description of the Commonwealth's investment and debt structure;

  (b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth, and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

  (c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year;

  (d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Tax and revenue anticipation notes, project notes, and funding notes may be variable-rate or fixed-rate obligations issued in the form of commercial paper, fixed-rate obligations, variable-rate demand obligations, multimodal obligations, commercial bank loans, or other commercially-reasonable forms of financing.

SECTION 7. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) Each member of the commission may designate, by an instrument in writing over the member's signature and filed with the commission as a public record, an alternate with full authority to:

(a) Attend in the absence of the appointing member for any reason, any properly-convened meeting of the commission; and

(b) Participate in the consideration of, and voting upon, business and transactions of the commission.

(2) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business;

(b) Be shown on the face of the appointing instrument to be on a continuing basis, but in no case for a period of more than four (4) years, whenever the appointing member is unable to attend;

(c) Be revoked by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission.

(3) Any party transacting business with the commission or materially affected by the commission shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of designation, and if of a continuing nature, whether the designation has been revoked, and when. The joint certificate shall be made and delivered to the party within a reasonable time after written request is made with acceptable identification of the business or transaction referred, and of the requesting party's interest.

(4) Each alternate shall be a person on the staff of the appointing member or shall be in the employ of the appointing member's agency or department of the government of the Commonwealth.

SECTION 8. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) As the receipt of revenues and expenditure demands of a particular fund or account of the Commonwealth render it necessary, the commission may issue tax and revenue anticipation notes to discharge expenditure demands in anticipation of estimated revenues that are required to be deposited in that fund or account during the fiscal year in which the tax and revenue anticipation notes are issued. Tax and revenue anticipation notes may be sold and issued in the manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant. Tax and revenue anticipation notes may be issued in an amount not to exceed seventy-five percent (75%) of the estimated revenues anticipated to be deposited during the fiscal year in the fund or account for which the tax and revenue anticipation notes are being issued. Tax and revenue anticipation notes, together with interest thereon, shall be repaid from revenues required to be deposited in the fund for which the tax and revenue anticipation notes were issued. Revenues to be deposited in that fund or account shall be pledged for the repayment of tax and revenue anticipation notes so long as any tax and revenue anticipation notes remain outstanding. Any lien on and security interest in taxes or revenues that may be created as provided in this section shall be prior and superior to any other lien or security interest created by law or otherwise.

(2) Tax and revenue anticipation notes may be refunded or reissued, in whole or in part.

(3) Notwithstanding any statutory provisions to the contrary, including without limitation KRS 56.870, no approvals beyond those specifically required in this section shall be required for the issuance, sale, and delivery of the tax and revenue anticipation notes.

(4) The commission shall report the issuance of tax and revenue anticipation notes to the Capital Projects and Bond Oversight Committee within thirty (30) days of issuance.

SECTION 9. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The commission may issue and sell project notes for authorized projects upon request by the cabinet. Project notes may be sold and issued in a manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant.

(2) Appropriations requests for payments under the financing agreements on project notes shall be made by the state agency requesting an authorized project unless the payments are to be payable from funds not subject to appropriation. Project notes, together with interest thereon, shall be repaid from payments received by the commission from the cabinet under a financing agreement. The cabinet shall enter into financing agreements with the commission for the issuance of project notes. State agencies requesting funding for an authorized project shall enter into an agreement with the cabinet for the issuance of project notes by the commission for that state agency. Agreements authorized by this section shall be either financing agreements, or alternative agreements which specify that any payments shall be made from funds that are not subject to appropriation by the General Assembly.

(3) Project notes may be issued for the following purposes:

(a) To pay any or all the costs of an authorized project for any state agency; and

(b) To refund outstanding project notes or other obligations of any state agency.

(4) Project notes shall have a maximum maturity not to exceed one hundred twenty percent (120%) of the expected

useful economic life of the project as estimated by the commission, and if more than one (1) project is being financed by the project notes, then the weighted average of the expected useful economic lives shall be used.

(5) The issuance of project notes shall be subject to KRS 56.870, to approval by the State Property and Buildings Commission, and to review by the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810.

(6) Project notes may be refunded, in whole or in part, from the proceeds of bonds or other obligations issued by any state agency authorized to issue bonds or other obligations.

(7) Project notes shall not constitute a debt of the Commonwealth or any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or any political subdivision.

SECTION 10. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The commission may issue and sell funding notes, for the purpose of funding judgments against the Commonwealth or any state agency. Funding notes may be sold and issued in a manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant.

(2) Appropriations requests for payment of principal and interest on funding notes shall be made by the state agency against which a judgment has been rendered. Funding notes, together with interest thereon, shall be repaid from payments received by the commission from the cabinet under a financing agreement.

(3) Funding notes may be issued for the following purposes:

- ***(a) To pay for judgments, which shall include legal settlements, court-ordered actions against the Commonwealth or any state agency, and any part of any expense or cost incidental to legal settlements or court-ordered actions against the Commonwealth or any state agency; and***
- ***(b) To refund outstanding issues of funding notes.***

(4) The issuance of funding notes shall be subject to KRS 56.870, to approval by the State Property and Buildings Commission, and to review by the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810.

(5) The cabinet, in providing for the expenditure of funds for any of the purposes mentioned in this section, may provide by a financing agreement with the state agency so affected, for the funding of the Commonwealth's or that state agency's judgment, and the state agency so affected is authorized to enter into a financing agreement with the cabinet for that purpose.

(6) Funding notes shall not constitute a debt of the Commonwealth or any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or any political subdivision, but the notes shall be payable solely from payments received under the financing agreement relating to the funding notes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Interest on all funding notes, project notes, and tax and revenue anticipation notes issued by the commission shall be exempt from income taxation and the funding notes, project notes, and tax and revenue anticipation notes shall be exempt from ad valorem taxation by the Commonwealth and its political subdivisions. All funding notes, project notes, and tax and revenue anticipation notes issued pursuant to Sections 1 to 11 of this Act shall be negotiable instruments.

Section 12. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, ***Kentucky Asset/Liability Commission,*** Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, and Eastern Kentucky University;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

- (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or
- (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to

the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 13. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and
7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University; and
9. Eastern Kentucky University.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) ***Pursuant to KRS 45A.853 and 45A.857, one (1) or more financial advisors, managing underwriters, and remarketing agents and one (1) bond counsel shall be chosen for the Kentucky Asset/Liability Commission. The commission shall enter into agreements with the individuals or entities for a maximum contract period of twenty-four (24) months. At the conclusion of the contract period, the executive director may continue the employment of the financial advisor, underwriter, remarketing agent, or bond counsel for another contract period, not to exceed twenty-four (24) months. If the employment is not continued or terminated, the selection of a financial advisor, underwriter, remarketing agent, or bond counsel as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.***

(5) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued;[~~ and~~]

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 14. KRS 27A.210 is amended to read as follows:

(1) The following books and records shall be maintained by the State Law Library:

(a) All copies of Volumes 1 to 77 of the Kentucky Reports;

(b) Twenty-five (25) copies each of Volumes 78 to 314 of the Kentucky Reports;

(c) Two (2) sets of all future publications of the journals and nine (9) sets of the Acts of the General Assembly; and

(d) Two (2) sets of the official Kentucky statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of Congress. When an exchange is agreed upon, the state law librarian shall send to ***the***[~~such~~] officer one (1) copy of the Acts of the General Assembly and one (1) set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes, and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the State Law Library upon concurrence of the administrative assistant to the Chief Justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, [~~such~~]books and other materials ***the librarian***[~~as he~~] deems suitable for the holdings of the State Law Library.

(6) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, sell ***any***[~~such~~] surplus books in the State Law Library ***that***[~~as~~] have a market value, collect the funds received therefor, and deposit them in the "State Law Library Surplus Books Fund," which is hereby created in the State Treasury. The "State Law Library Surplus Books Fund" shall not lapse. The state law librarian may reinvest ***the***[~~such~~] funds in other books and materials that ***the librarian***[~~he~~] deems suitable for the holdings of the State Law Library. The provisions of KRS 45A.045***(5)***[~~(4)~~] concerning the powers and duties of the Finance and Administration Cabinet shall not apply to sales made by the state law librarian ***under this section***[~~hereunder~~].

(7) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, offer and provide technical and other assistance to county law libraries and to other publicly funded law libraries.

(8) The state law librarian may, upon the request of a county law library or other publicly funded law library and with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, purchase books, supplies, or other materials for ***the***[~~such~~] library. The funds used for ***these***[~~such~~] purposes shall be those of the county law library or other publicly funded law library.

(9) The state law librarian shall issue, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, regulations for the operation, management, and lending policy of the State Law Library.

Section 15. KRS 42.025 is amended to read as follows:

(1) The Division of Printing shall be responsible for the printing and duplicating needs of state agencies, as ***designated by the Finance and Administration Cabinet***[~~provided by KRS Chapters 45A and 57. The division shall include printing consultants to advise and assist state agencies in advance planning on an annual basis of their printing needs and a forms control unit to review the requirements of state agencies for various kinds of forms and to advise and assist state agencies in forms control, development and revisions~~].

(2) The Division of Postal Services shall operate the centralized postal services for executive branch agencies as set forth in KRS 12.020. The division shall operate at a central location with additional locations necessary to maintain and improve service levels.

Section 16. KRS 45.101 is amended to read as follows:

(1) Except as otherwise provided by law, each state officer or employee who is authorized by law to receive, from corporations or from the State Treasury or from any fund appropriated out of the State Treasury,[~~ his~~] traveling or other expenses incident to the discharge of[~~ his~~] official duties, shall submit to the Finance and Administration Cabinet ***information regarding the expenses and necessary receipts as provided by administrative regulation promulgated by the Finance and Administration Cabinet***[~~an itemized statement of such expenses, accompanied by a receipt for each~~

~~item of expense in excess of two dollars ($2)~~], before the cabinet shall audit or pay ***the***[~~such~~] expenses. The Finance and Administration Cabinet may rely on a preaudit performed by the budget unit as a basis for issuing a warrant.

(2) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit budget units to contract with airlines, railroads, hotels, or other companies for services to a group of their employees while on official travel status. ***The***[~~Such~~] expenses are to be submitted to the Finance and Administration Cabinet on forms prescribed by the Finance and Administration Cabinet before the cabinet shall audit or pay ***the***[~~such~~] expenses.

(3) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit state officers or employees to assign their claim for reimbursement of travel expenses to airline, railroad, hotel, or other companies in payment of services rendered as provided for in ***subsections (1) and***[~~subsection~~] (2) of this section[~~ and as shown on the itemized statement and receipts as provided for in subsection (1) of this section, which statements and receipts shall indicate that such company has extended credit to said officer or employee in the name of the state and incident to the discharge of his official duties~~].

(4) Each state officer or employee who by reason of the duties assigned to ***the officer or employee's***[~~his~~] office is required to be at the state capital for the majority of the time, or who has an office located at the state capital, shall not be permitted to charge for expenses except from the state capital to the place where the business ***the officer or employee***[~~he~~] is transacting is to be transacted, and from that place back to the state capital, and each officer or employee who is assigned to duty at some place other than the state capital shall only be permitted to charge to the state such expenses as are incurred in going from that place to the place where the business is transacted, and returning. Expenses in going from the state capital or the place where the officer or employee is assigned to duty to the officer's or employee's real place of residence, or in return therefrom, shall not be allowed unless it is shown that it was necessary for ***the officer or employee***[~~him~~] to make the trip in the discharge of business for the state.

(5) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit the payment of travel and other expenses incidental to the official activities of formally organized groups sponsored by or otherwise representing state agencies. The payment may be made direct to service establishments in the manner set forth in subsection (3) of this section, by an inter-account bill between budget units, or by reimbursement to the official or other employee who has been designated as the officer-in-charge of the organized group. If it is necessary that one (1) or more state employees or officials travel with the group, their expenses may be included in the total expenses for the group.

(6) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations allowing heads of budget units to establish imprest cash funds for reimbursement of travel expenses.

(7) Except as provided in KRS Chapter 6, but the provisions of any other laws to the contrary notwithstanding, and in lieu of the reimbursement of travel and other incidental expenses authorized by subsection (1) of this section, the Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to provide for the payment of a fixed expense allowance per day to be established by the secretary of ***the Finance and Administration Cabinet***[~~said cabinet~~], plus necessary travel expenses, to each state officer or employee who is authorized by law to be reimbursed for expenses incurred in the discharge of[~~ his~~] official duties. This payment shall be made from an appropriation for this purpose to a budget unit of a branch of government.

Section 17. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all ***information technology standards, system attributes, and components***[~~forms~~] to be used in, or in conjunction with, the unified accounting system***. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided in KRS 61.950***.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate[~~ in writing~~] the officer or employee authorized to ***approve***[~~sign~~] advices of employment,[~~ copies of~~] purchase orders and contracts, and requisitions for reservation of funds, and no[~~ such~~] advice, order, contract, or requisition shall be honored as a commitment statement unless the designation ***has been conveyed to***[~~, with a copy of the signature of the officer or employee designated, is on file in the office of~~] the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure [~~document~~] presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight

disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 18. KRS 45.306 is amended to read as follows:

The Finance and Administration Cabinet shall examine all ***formats***~~[blank forms]~~ used or proposed for use by any budget unit for the purposes specified in this section, and shall design or redesign them with a view to providing for the simplification, unification, and integration of financial and business administrative records and procedures.~~[The Finance and Administration Cabinet shall also prescribe, and enforce adherence to, standard sizes, colors, and designs of forms, including styles of type and qualities and grades of paper.]~~ This section shall apply to all ***financial and nonfinancial electronic commerce standards to ensure consistent internal control and system integration in accordance with Commonwealth information technology architecture***~~[forms]~~ for use in accounting, preauditing, State Treasury administration, personnel administration, purchasing, property control, and other matters of financial and business administration of the state or any budget unit thereof, with the exception of uniform forms for use in the preparation of budget estimates, requests, and recommendations provided for by KRS 48.040.

Section 19. KRS 45.310 is amended to read as follows:

The Finance and Administration Cabinet shall keep an accurate ***record***~~[account, in books,]~~ of all warrants and certificates drawn or issued by the cabinet, showing in due succession the date, number, and amount of each warrant, and for what and to whom issued. The cabinet shall also keep a ***record of***~~[book in which shall be entered]~~ all receipts~~[by the State Treasurer for money]~~ paid into the State Treasury.

Section 20. KRS 45.313 is amended to read as follows:

Each budget unit shall maintain a current inventory of equipment ***as provided by administrative regulation promulgated by the Finance and Administration Cabinet***~~[having an original cost of one hundred dollars ($100) or more and all supplies]~~. ***The***~~[Such]~~ inventory~~[of supplies and equipment]~~ shall be available for examination by the Finance and Administration Cabinet at all times.~~[A copy of the inventory of each budget unit shall be filed with the Finance and Administration Cabinet as of June 30 of each year.]~~

Section 21. KRS 45.453 is amended to read as follows:

All bills shall be paid within thirty (30) working days of receipt of ***goods and services or*** a vendor's invoice except when~~[payment is delayed because]~~ the purchasing agency has ***transmitted a rejection notice to***~~[made a written disapproval of improper performances or improper invoicing by]~~ the vendor~~[or by the vendor's subcontractor]~~.

Section 22. KRS 45.455 is amended to read as follows:

A purchasing agency shall transmit ***authorization for payment***~~[a vendor's approved invoice with required]~~ documentation to the Finance and Administration Cabinet within ten (10) working days of receipt of ***goods or services or*** the ***vendor's*** invoice by the purchasing agency.

Section 23. KRS 45.456 is amended to read as follows:

The Finance and Administration Cabinet shall transmit a warrant for payment to the ***State Treasurer***~~[Department of the Treasury]~~ within ten (10) working days of receipt of ***the authorization for payment documentation from the***~~[a vendor's approved invoice by the Finance and Administration Cabinet from a]~~ purchasing agency. ***When***~~[In those cases in which]~~ the Finance and Administration Cabinet is the purchasing agency, the cabinet shall transmit a warrant for payment to the ***State Treasurer***~~[Department of the Treasury]~~ within twenty (20) working days of receipt of ***the authorization for payment documentation***~~[a vendor's approved invoice]~~.

Section 24. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

 (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

 (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

 (c) The Finance and Administration Cabinet shall attempt in every practicable way to ***ensure***~~[insure]~~ that state agencies are ***fulfilling their business needs through the application of the best value criteria***~~[acquiring their~~

~~real needs at the lowest possible cost~~].

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures, and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general ***administrative*** regulations ***promulgated***[~~prescribed~~] by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of[~~ all property (including~~] any interest in real property[~~)~~] of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any[~~ such~~] real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all[~~ such property (including any~~] interests in real property[~~)~~] shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for ***the***[~~such~~] requirements of that cabinet.

(5) ***The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Purchases, Surplus Property Branch, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.***

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall ***promulgate administrative***[~~adopt~~] regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7)[~~(6)~~] The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8)[~~(7)~~] Nothing in this section shall ***prevent***[~~deprive~~] the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(9)[~~(8)~~] Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself ***or herself,*** through any other person influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10)[~~(9)~~] The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11)[~~(10)~~] For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;

(b) A package system commonly referred to as "turnkey";

(c) Phase bidding commonly referred to as "fast track"; or

(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12)[~~(11)~~] The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in this code, and shall ***promulgate administrative regulations to*** designate[~~ by regulation~~] the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 25. KRS 45A.050 is amended to read as follows:

(1) Except as provided in KRS 45A.800 to 45A.835 and KRS Chapters 175, 176, 177, and 180, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any state agency under the several statutes relating thereto, are hereby transferred to the secretary of the Finance and Administration Cabinet as provided in this code, subject to the provisions of subsection (2) of this section.

(2) Unless otherwise ordered by the secretary of the Finance and Administration Cabinet, the acquisition of the following shall not be required through the Finance and Administration Cabinet:

(a) Works of art for museum and public display;

(b) Published books, maps, periodicals, and technical pamphlets; and

(c) Services of visiting speakers, professors, and performing artists.

(3) The Finance and Administration Cabinet shall include in all state agency price contracts for the purchase of materials or supplies a provision that, as approved by the secretary of the Finance and Administration Cabinet, any political subdivision, including cities of all classes, counties, school districts, or special districts, may participate in such contracts to the same extent as the Commonwealth. Any political subdivision may purchase materials and supplies pursuant to a contract for such supplies and materials entered into by the Finance and Administration Cabinet for the Commonwealth, including those contracts negotiated by the cabinet with vendors who maintain a general service administration price agreement as provided in subsection ***(8)***[~~(7)~~] of KRS 45A.045. Political subdivisions of the Commonwealth must comply with other provisions of the Kentucky Revised Statutes which require purchase by competitive bidding, before participating in the contract, unless the state contract has been let by competitive bidding, or the contract was negotiated as provided in subsection ***(8)***[~~(7)~~] of KRS 45A.045.

(4) The Finance and Administration Cabinet shall inform the Department of Local Government, which shall then inform the appropriate purchasing agent of each political subdivision, interested in participating under this section, of all state agency contracts in effect between the Commonwealth and vendors.

(5) The secretary of the Finance and Administration Cabinet shall promulgate ***administrative***~~[the rules and]~~ regulations necessary for the implementation of this section and necessary to provide that the Commonwealth be reimbursed for any additional expenses incurred by the Commonwealth in allowing political subdivisions to participate in contracts with vendors.

(6) The Finance and Administration Cabinet shall comply with all provisions relating to the methods of purchasing in the Kentucky Revised Statutes. This section is not intended to repeal or otherwise affect any provision of the Kentucky Revised Statutes regarding purchasing methods of the Finance and Administration Cabinet.

Section 26. KRS 45A.070 is amended to read as follows:

As used in KRS 45A.070 to 45A.165, unless the context in which they are used clearly requires a different meaning:

(1) "Cost-reimbursement contract" ***means***~~[shall mean]~~ a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles ~~[(]~~as provided in KRS 45A.215~~[)]~~, and a fee, if any.

(2) "Established catalogue price" ***means***~~[shall mean]~~ the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(3) "***Best value" means a procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth. These decisions shall be based on objective and quantifiable criteria that shall include price and that have been communicated to the offerors.***~~[Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to measurable criteria, set forth in the invitation for bids:~~

~~(a) Including, but not limited to, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose;~~

~~(b) Which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, and residual value; and~~

~~(c) Which shall be used to determine acceptability.]~~

(4) "Invitation for bids" ***means***~~[shall mean]~~ all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.080 of this code.

(5) "Request for proposals" ***means***~~[shall mean]~~ all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.085, 45A.090, 45A.095 or 45A.100.

(6) "Responsible bidder or offeror" ***means***~~[shall mean]~~ a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) "Responsive bidder" ***means***~~[shall mean]~~ a person who has submitted a bid under KRS 45A.080 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

Section 27. KRS 45A.080 is amended to read as follows:

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(a) Specifications can be prepared that permit award on the basis of ***best value***~~[either the lowest bid price or the lowest evaluated bid price]~~; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state ***that awards***~~[whether award]~~ shall be made on the basis of ***best value***~~[the lowest bid price or the lowest evaluated bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids]~~.

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth~~[therein]~~ for the opening of bids. The notice ***may***~~[shall]~~ include publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet for all price contracts and purchase contracts estimated to exceed twenty-five thousand dollars ($25,000) not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of

state institutions of higher education.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection.

(5) The contract shall be awarded[~~ with reasonable promptness~~] by written notice to the responsive and responsible bidder whose bid ***offers the best value***[~~is either the lowest bid price or lowest evaluated bid price~~].

(6) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the secretary.

Section 28. KRS 45A.085 is amended to read as follows:

(1) When, under ***administrative*** regulations ***promulgated***[~~issued~~] by the secretary, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts may be competitively negotiated when it is determined in writing by the purchasing officer that the ***bids***[~~bid prices~~] received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which[~~:~~

~~(a)~~] each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate[~~; and~~

~~(b) The negotiated price is lower than the lowest rejected bid by any competitive bidder; and~~

~~(c) The negotiated price is the lowest negotiated price offered by any competitive offeror~~].

(4) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(6) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where ***the***[~~such~~] prices are fixed by law or ***administrative*** regulation, except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or[~~ accurate~~] prior[~~ cost~~] experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable ***best value procurement***[~~prices~~], and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 29. KRS 45A.090 is amended to read as follows:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the[~~ lowest~~] responsive and responsible bidder ***whose bid offers the best value***; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080, then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS 45A.085 shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the ***most***[~~lowest~~] responsive and responsible bidders***, based on criteria contained in the***[~~ to the competitive sealed~~] bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of ***best value***[~~the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror~~].

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Section 30. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under ***administrative*** regulations ***promulgated***[~~issued~~] by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the ***best value***[~~lowest acceptable quotation~~]. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists; and

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer, may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations, and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 31. KRS 45A.300 is amended to read as follows:

(1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. ***This***[~~Such~~] cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

(2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.165.

(3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045***(5)***[~~(4)~~] and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

(4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to ***the***[~~such~~] terms as may be agreed upon between the parties.

(5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars ($2,500).

(6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on

supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

Section 32. KRS 45A.660 is amended to read as follows:

The Finance and Administration Cabinet may, for satisfactory reason consistent with its responsibility to attempt in every practical way to ***ensure***[~~insure~~] that state agencies are acquiring their real needs ***through the application of best value criteria***[~~at the lowest possible cost or to the best advantage of the state~~], waive any requirements of this code in instances where purchases are made by the Commonwealth of Kentucky or any agency thereof from the federal government or any agency thereof or from any other state government or any agency thereof.

Section 33. KRS 45A.695 is amended to read as follows:

(1) No one shall begin work on a personal service contract made by any contracting body except as provided in subsection (8) of this section, until after ***a copy***[~~three (3) copies~~] of the personal service contract ***is***[~~are~~] filed with the Legislative Research Commission. Each service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each copy of a proposed personal service contract submitted to the Legislative Research Commission shall be accompanied by documentation of:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service; and

(c) In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3).

(3) Adequate notice of the need for the services shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or a designee of the officer may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or a designee of the officer, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals, and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors, in the order of their respective qualification ranking. In this case the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of ***the***[~~such~~] officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing[~~ thereof~~] and shall maintain a file of[~~ such~~] personal service contracts for public inspection, with suitable indexes.

(7) Payment on contracts submitted to the subcommittee shall not be made before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary.

(8) In the event of a governmental emergency, work may begin prior to filing ***a copy***[~~three (3) copies~~] of the personal service contract with the Legislative Research Commission providing that the normal process will not accommodate the emergency.

(9) If an emergency exists and work is authorized to begin immediately, ***a copy***[~~three (3) copies~~] of a statement, approved by the secretary of the Finance and Administration Cabinet, setting forth in detail the nature of the emergency shall be filed with the ***copy***[~~three (3) copies~~] of the personal service contract.

Section 34. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts on which the estimated cost does not exceed ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] shall be exempt from review by the subcommittee. Personal service contracts of ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] or less shall be filed with the subcommittee prior to their effective date pursuant to KRS 45A.695 for informational purposes. The subcommittee shall periodically examine the informational copies of personal service contracts of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] and payment of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] for personal services and may request agency participation in discussions relative to their contracts or payments.

(2) All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates. If a personal service contract of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] is amended to the extent the amended total of the contract exceeds ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] per calendar year, the amended contract shall be placed on the agenda for the subcommittee's review.

Section 35. KRS 56.782 is amended to read as follows:

The Finance and Administration Cabinet shall report on or before October 15 in odd-numbered years to the Legislative Research Commission on progress made to maximize the use of energy efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include, but not be limited to:

(1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy efficiency measures, including employee training efforts;

(2) A summary of energy efficiency measures installed and energy improvements made during the reporting period;

(3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy efficiency measures and improvements;

(4) Status report on efforts to assure buildings newly constructed, renovated, or leased are energy-efficient;

(5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045***(12)***[~~(11)~~]; and

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government.

Section 36. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector.

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. ***In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.***

Section 37. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman, the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor, the secretary of the Finance and

Administration Cabinet, and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his ***or her*** signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:

(a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and

(b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

(5) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;

(b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or

(c) Be revoked at any time by the appointing member in an instrument in writing, over his ***or her*** signature, filed with the secretary of the commission as a public record of the commission.

(6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.

(7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.

(8) The provisions of KRS 61.070 shall not apply to members of the commission.

(9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a U.S. government agency, including but not limited to:

1. U.S. Treasury;
2. Export-Import Bank of the United States;
3. Farmers Home Administration;
4. Government National Mortgage Corporation; and
5. Merchant Marine bonds;

(b) Obligations of any corporation of the U.S. government, including but not limited to:

1. Federal Home Loan Mortgage Corporation;
2. Federal Farm Credit Banks;
    a. Bank for Cooperatives;
    b. Federal Intermediate Credit Banks;
    c. Federal Land Banks;
3. Federal Home Loan Banks;
4. Federal National Mortgage Association; and
5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;~~[and]~~

(g) ***United States denominated corporate, Yankee, and Eurodollar securities issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;***

(h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and

(i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:

1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended; and
2. The management company of the investment company shall have been in operation for at least five (5) years; and
3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section.

(10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds and the regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments; and

(e) The acceptable maturity of investments.

(11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.

(12) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed. Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts, shall accrue to the capital construction investment income account. If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130 the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.

(13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the ***administrative*** regulations mandated by KRS 42.525.

(15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Section 38. KRS 42.525 is amended to read as follows:

(1) The State Investment Commission shall ***promulgate administrative***[~~adopt~~] regulations[~~, no later than January 1, 1983,~~] for the investment and reinvestment of state funds and the acquisition, retention, management, and disposition of investments.

(2) The regulations shall specify:

  (a) The long and short term goals of any investment;

  (b) The specification of moneys to be invested;

  (c) The amount of funds which may be invested per instrument;

  (d) The qualifications of instruments;

  (e) [~~Minimum interest rates for funds invested long and short term;~~

  ~~(f)~~]The acceptable maturity of investments;

  [~~(g) The investment procedure with respect to in-state and out-of state depositories provided that funds available for investment shall be offered first to qualified Kentucky depositories consistent with the investment guidelines;~~] and

  (f)[~~(h)~~] The distribution method of funds among types of institutions.

Section 39. KRS 42.535 is amended to read as follows:

Each agency holding funds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed by the listed funds during each fiscal year, on or before the ***fifteenth***[~~15th~~] of July, showing the receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each listed fund to the ***Office of the Controller***[~~State Investment Commission~~]. The funds which shall be reported are:

(1) The county sinking fund;

(2) Tobacco research trust fund;

(3) The uninsured employers' fund;

(4) The administrative fund created by KRS 342.440, also known as the workers' compensation maintenance fund;

(5) The special claim fund; ***and***

(6) The common school fund.

Section 40. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, and the State Fair Board shall make a report according to generally-accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the ***Office of the Controller***[~~State Investment Commission~~]. ***These***[~~Such~~] fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 41. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the ***fifteenth***[~~15th~~] of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the ***Office of the Controller***[~~State Investment Commission~~]. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 42. KRS 42.550 is amended to read as follows:

The Department of Education shall make a report according to generally accepted accounting principles of all money received and disbursed from the common school fund and the Support Education Excellence in Kentucky (SEEK) Program, to local school districts showing their receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each fund to the ***Office of the Controller***[~~State Investment Commission~~] for each fiscal year on or before the ***fifteenth***[~~15th~~] of July.

Section 43. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management and Economic Analysis established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to ***41.375***[~~41.390~~] and ***KRS*** 42.500, have and perform functions and duties as follows:

  (a) The analysis and management of short and long-term cash flow requirements;

  (b) The maximization of the return on state investments given the cash flow and liquidity requirements;

  (c) The coordination and monitoring of cash needs relative to investment and debt activity;

  (d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

  (e) The evaluation of revenue projections relative to proposed revenue bond issues;

  (f) The performance of the cabinet's revenue estimating and economic analysis functions and responsibilities, including, but not limited to, those functions and responsibilities assigned to the cabinet by KRS 48.120;

  (g) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;

  (h) The tax administrative function of utilizing tax data to provide the Revenue Cabinet with studies, projections, statistical analyses, and any other information that will assist the Revenue Cabinet in performing its tax administrative functions; and

  (i) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.

(2) The Office of Financial Management and Economic Analysis shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management and Economic Analysis shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The Office of Financial Management and Economic Analysis shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

  (a) Nonappropriation-supported debt as a percent of state total personal income;

  (b) Nonappropriation-supported debt as a percent of total assessed value of property;

  (c) Nonappropriation-supported debt per capita;

  (d) Appropriation-supported debt as a percent of state total personal income;

  (e) Appropriation-supported debt as a percent of total assessed value of property;

  (f) Appropriation-supported debt per capita;

  (g) Appropriation-supported debt service as a percent of total state personal income;

  (h) Appropriation-supported debt service as a percent of total assessed value of property; and

  (i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

  (a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 44. KRS 56.782 is amended to read as follows:

The Finance and Administration Cabinet shall report on or before October 15 in odd-numbered years to the Legislative Research Commission on progress made to maximize the use of energy efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include, but not be limited to:

(1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy efficiency measures, including employee training efforts;

(2) A summary of energy efficiency measures installed and energy improvements made during the reporting period;

(3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy efficiency measures and improvements;

(4) Status report on efforts to assure buildings newly constructed, renovated, or leased are energy-efficient;

(5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045***(12)***[~~(11)~~]; and

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government.

Section 45. The following KRS sections are repealed:

41.390 Power to borrow money and issue negotiable notes.

42.515 Investments to be offered first to Kentucky depositories.

45A.710 Personal service contracts for advertising, promotional, or public relations services.

57.031 State printing under control of Finance and Administration Cabinet -- Qualifications of buyer.

57.041 Requisitions for printing.

57.051 Printing specifications.

57.061 Advertisement for bids.

57.071 Bond of bidders -- Condition.

57.081 Restraint of competitive bidding.

57.111 Paper furnished by the printer -- Bills for paper or stationery -- Form.

57.121 Rejection of work -- Reprinting.

57.131 Title to plates and art work.

57.141 Cancellation of contract -- Grounds.

57.280 Biennial report of the Finance and Administration Cabinet to General Assembly.

Section 46. Whereas it is in the best interests of the Commonwealth to implement cost-saving and efficiency related measures as expediently as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Appropriations and Revenue reported **HB 4,** with Committee Amendment No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length and ordered placed in the Calendar.

The Committee Amendment No. 1 to **HB 4** is as follows:

On page 10, line 24, by deleting the words "***in Section 4 of this Act***" and inserting the word "***herein***"; and

On page 10, after line 24 but before line 25, by inserting the following:

"***Prior to the appointment of the Kentucky Community and Technical College System Board of Regents, any allottment or expenditure of the above appropriation shall be determined by the State Budget Director upon consultation with the co-chairs of the Interim Joint Committee on Appropriations and Revenue and shall be reported to the Committee prior to any expenditure of funds. Effective upon appointment of the Board of Regents, determinations regarding any allottment or expenditure of the above appropriation shall be made by the Board of Regents considering the needs assessment and proposed budget plan for fiscal year 1997-98 as identified by each individual community college.***

In order to develop the needs assessments and proposed budget plans in a timely manner, the State Budget Director shall, upon passage of this Act, request individual community colleges to submit information regarding their respective needs, priorities, and budget plan for use of the above appropriation. The needs assessments shall be transmitted to the Board of Regents for its funding determinations.

It is the intent of the General Assembly that a high priority be given to evaluating and improving the salaries of the community college faculty and staff consistent with the needs and priorities identified by individual community colleges and consistent with the 1996-98 budget as enacted by the 1996 General Assembly. The number one budget request priority of the Community College System for the 1996-98 budget process was to correct the historically low salaries of the faculty. The average 1994-95 salary of a community college faculty member was approximately $7,024 less than the midpoint between the average 1994-95 salary of a Kentucky high school teacher and the average salary of a faculty member in Kentucky's other state-supported higher education institutions.

The Kentucky Community and Technical College System shall conduct a needs assessment of the Technical Institutions' Branch for fiscal year 1997-98. In order to develop the needs assessments and proposed budget plans in a timely manner, the State Budget Director shall, upon passage of this Act, request individual technical institutions to submit information regarding their respective needs, priorities, and budget plan for fiscal year 1997-98. The needs assessments shall be transmitted to the Kentucky Community and Technical College Board of Regents for its funding determinations.".

Calendar

HB 5 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

The Clerk read the following Governor's Proclamation:

To All To Whom These Presents Shall Come:

Pursuant to the power vested in me by Section 80 of the Constitution of the Commonwealth of Kentucky, I, Paul E. Patton, Governor of the Commonwealth of Kentucky, do issue this proclamation, amending my proclamations dated April 23, 2997 and May 20, 1997, all the terms of which are incorporated by reference herein,, and I do further hereby add the following matters to said proclamation for consideration by the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky:

(1) Authorize the issuance of bonds and appropriate debt service under 1996 Kentucky Acts Chapter 380, Part X to provide for additional support to the Commonwealth's post secondary and technical education system and to provide additional budgetary capacity.

DONE AT THE CAPITOL, in the City of Frankfort, this 22nd day of May in the year of our Lord One Thousand Nine Hundred and Ninety-Seven and in the year of the Commonwealth the Two Hundred and Fifth.

s/Paul E. Patton, Governor

s/John Y. Brown III, Secretary of State

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

Recess

Representative Stumbo moved that the House recess. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 3 amending Committee Amendment No. 1 to **HB 4**, by Representative Moberly:

On page 1, in the second sentence of the first paragraph after the words "***made by the Board of Regents***" but before the word "***considering***" by inserting the following:

"***in an equitable manner***"; and

On page 1, at the end of the first paragraph by inserting the following:

"***The criteria for equitable distribution shall be determined by the Board of Regents.***".

Floor Amendment No. 8, Title to **HB 4**, by Representative Moberly:

By amending the title to read as follows: AN ACT relating to appropriations providing financing for postsecondary education, adult education literacy, juvenile justice, and the capital construction and technology trust fund plan, and declaring an emergency.

Representative Stumbo moved that the rules be suspended to allow a Rules Report. Agreed.

Report of Committees (Cont.)

The Committee on Rules reported that **HB 4** and **HB 5** have been posted for passage in the Orders of the Day for May 27, 1997.

Motions, Petitions and Communications

Representative Stumbo moved the adoption of the following **Legislative Citation No. 36**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Paul E. Patton, Governor of the Commonwealth of Kentucky in recognition of his 60th Birthday. In recognition of this memorable event the entire membership joins Representative Gregory Stumbo in commending Governor Paul E. Patton, born on May 26, 1937, in Fallsburg Kentucky, one of three children born to Ward and Irene Patton, for his dedication to this great Commonwealth and extends our best wishes on the occasion of his sixtieth birthday for his continued vitality, health and happiness. **Legislative Citation No. 36** was adopted without objection.

Roll call to show co-sponsors on **Legislative Citation No. 36** is as follows: J. Adams, R. Adams, Adkins, Allen, Anderson, A. Arnold, Ballard, Barrows, Bratcher, Brown, Bruce, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Colter, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Maricle, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stewart, Stine, Stumbo, Thomas, Turner, Vincent, Walton, Wayne, Weaver, Worthington, Yonts, Zimmerman.

Representative Siler moved that Floor Amendment No. 1 to **HB 4** be withdrawn. Agreed.

Representative Barrows moved the adoption of the following **HR 20**:

HR 20, A RESOLUTION to encourage the President and the United States Congress to re-examine United States foreign policy towards Ethiopia.

WHEREAS, the noble people of Ethiopia have developed and nourished a proud and distinguished culture that has endured for three millennia; and

WHEREAS, Ethiopia has had a long and productive friendship with the United States of America; and

WHEREAS, the people of the United States have responded generously and magnificently to the plight of Ethiopian famine victims through the provision of humanitarian aid; and

WHEREAS, the winds of democratic change have blown dramatically and ferociously across the former Soviet Union, Eastern Europe, Latin America, many parts of Africa, and now to Ethiopia; and

WHEREAS, Ethiopia is poised at a crucial juncture in its history because it is making a regression towards non-democratic one-party rule of Ethiopian People's Revolutionary Democratic Front (EPRDF); and

WHEREAS, the ascendance of the Ethiopian People's Revolutionary Democratic Front and its policy of promoting ethnic federalism have engendered animosity among nationalities of Ethiopia; and

WHEREAS, such governmental policies and practices have contributed to the severity of strained relations in Ethiopia by misdirected bureaucratic cleansing, arbitrary arrest, and detention of the prominent physician professor Asrat Woldeyes and many other prisoners of conscience, recognized as such by Amnesty International and the indigenous Ethiopian Human Rights Council (EHRC); and

WHEREAS, the people of Ethiopia are aspiring to resolve their complicated problems through the formation and utilization of democratic institutions and maximum citizen input; and

WHEREAS, the basic underpinning of democratic institutions in the new Ethiopia should be the supremacy of the will of the people and the guarantee of the rule of the people; and

WHEREAS, the Ethiopian government should adhere to the United Nations Universal Declaration of Human Rights, which encourages freedom of speech, assembly, religion, and press, guarantees all basic rights, and discourages ethnocentric politics and ethnic reservations; and

WHEREAS, it is crucial that the diverse voices, opinions, and philosophies of the people be expressed in promoting political, economic, and social progress and justices in Ethiopia; and

WHEREAS, a multiparty government may be the most egalitarian, feasible, and productive political arrangement in providing suffrage and in overcoming monumental obstacles; and

WHEREAS, President Bill Clinton and the Congress of the United States will play a crucial role in promoting the peaceful resolution of the immense problems of war ravaged Ethiopia; and

WHEREAS, the implementation of a democratic, multiparty government in Ethiopia should be a long-range foreign policy goal of the United States Government;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Honorable House of Representatives continue to encourage the formation of democratic institutions, multiparty participation, progressive social change, and respect for fundamental human rights in Ethiopia, including freedom of association and expression.

Section 2. The President and the Congress of the United States should be encouraged to use every possible means at their command to examine the policy, that recognizes and evaluates the political conditions that exist in Ethiopia with a view to ensure the prevention of the shocking brutality of ethnic warfare elsewhere in Africa from spreading to Ethiopia.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Bill Clinton, President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Albert Gore, Vice President, Old Executive Office Building, Washington, D.C. 20510; the Honorable Madeleine K. Albright, 2201 "C" Street, N.W., Washington, D.C. 20520; His Excellency Berhane Gebre-Chrispof, Embassy of Ethiopia, 2134 Kalorama Road, N.W., Washington, D.C. 20008; the Honorable Newt Gingrich, Speaker of the House of Representatives, 2428 Rayburn House Office Building, Washington, D.C. 20515-1006; the Honorable Wendell H. Ford, 173A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Mitch McConnell, 361A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Ed Whitfield, 236 Cannon House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 412 Cannon House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 1004 Longworth Office Building, Washington, D.C. 20515; the Honorable Jim Bunning, 2437 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2468 Rayburn House Office Building, Washington, D.C. 20515; and the Honorable Scotty Baesler, 113 Cannon House Office Building, Washington, D.C. 20515.

There being no objection **HR 20** was adopted.

Floor Amendments (Cont.)

Floor Amendment No. 4 to **HB 4**, by Representative Damron:

On page 1, line 6, by deleting "***26,021,800***" and inserting in lieu thereof "***31,313,700***"; and on page 1, line 8, by deleting "***30,006,400***" and inserting in lieu thereof "***35,298,300***", and

on page 1, line 13, by deleting "***$15,000,000***" and inserting in lieu thereof "***$20,291,900***"' and on page 1, after line 21 and before line 22, by inserting the following:

"***d Student Financial Aid and Advancement Trust Fund 5,291,900***";

and on page 5, line 4, by deleting "***62,833,800***" and inserting in lieu thereof "***61,325,700***"; and

on page 5, line 8, by deleting "***166,900,800***" and inserting in lieu thereof "***165,392,700***"; and

on page 5, line 11, after "***additional***", by deleting "***$3,016,100***" and inserting in lieu thereof "***$1,508,000***"; and

on page 5, line 19, by deleting "***19,924,500***" and inserting in lieu thereof "***19,861,600***"; and

on page 5, line 23, by deleting "***42,571,100***" and inserting in lieu thereof "***42,508,200***"; and

on page 5, line 26, after "***additional***", by deleting "***$125,800***" and inserting in lieu thereof "***$62,900***"; and

on page 6, line 7, by deleting "***36,823,100***" and inserting in lieu thereof "***36,159,900***"; and

on page 6, line 11, by deleting "***84,560,500***" and inserting in lieu thereof "***83,897,300***"; and

on page 6, line 14, after "***additional***", by deleting "***$1,326,400***" and inserting in lieu thereof "***$663,200***";

and on page 6, line 22, by deleting "***43,926,200***" and inserting in lieu thereof "***43,813,700***"; and

on page 6, line 26, by deleting "***88,922,300***" and inserting in lieu thereof "***88,809,800***"; and

on page 7, line 2, after "***additional***", by deleting "***$224,900***" and inserting in lieu thereof "***$112,400***";

and on page 7, line 9, by deleting "***33,256,300***" and inserting in lieu thereof "***32,791,400***"; and

on page 7, line 13, by deleting "***84,227,700***" and inserting in lieu thereof "***83,762,800***"; and

on page 7, line 16, after "***additional***", by deleting "***$929,700***" and inserting in lieu thereof "***$464,800***"; and

on page 7, line 24, by deleting "***272,623,000***" and inserting in lieu thereof "***271,883,000***"; and

on page 8, line 1, by deleting "***873,828,600***"and inserting in lieu thereof "***873,088,600***"; and

on page 8, line 4, after "***additional***", by deleting "***$1,480,000***" and inserting in lieu thereof "***$740,000***"; and

on page 11, line 16, by deleting "***154,179,700***" and inserting in lieu thereof "***152,820,100***"; and on page 11, line 20, by deleting "***379,915,500***" and inserting in lieu thereof "***378,555,900***"; and on page 11, line 23, after "***additional***", by deleting "***$719,200***" and inserting in lieu thereof "***$359,600***"; and

on page 11, line 24, after "***additional***", by deleting "***$2,000,000***" and inserting in lieu thereof "***$1,000,000***"; and

on page 12, line 24, by deleting "***56,614,200***" and inserting in lieu thereof "***56,233,500***"; and

on page 13, line 1, by deleting "***126,287,000***" and inserting in lieu thereof "***125,906,300***"; and

on page 13, line 4, after "***additional***", by deleting "***$761,300***" and inserting in lieu thereof "***$380,600***".

Motions, Petitions and Communications (Cont.)

Representative Callahan moved the adoption of the following **HR 24**:

HR 24, A RESOLUTION adjourning the House on May 23, 1997, in honor of Newport Central Catholic Softball Team. .

WHEREAS, it seems appropriate for this honorable body to reflect upon the achievements of individuals in the Commonwealth of Kentucky; and

WHEREAS, Newport Central Catholic Softball Team has achieved its first-ever State Championship; and

WHEREAS, Coach Jenny Mertle credits the seniors for their leadership, hard work and determination; and

WHEREAS, Coach Jenny Mertle has coached Newport Central Catholic's softball team for the past eighteen years; and

WHEREAS, Newport Central Catholic Softball Team finished its season with a record of twenty-nine wins and five losses;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House hails and commends Newport Central Catholic for their motivation to achieve and their athletic excellence.

Section 2. The commitment, perseverance, and standard of achievement Newport Central Catholic Softball Team has demonstrated brings great credit upon them and the Commonwealth of Kentucky.

Section 3. This honorable body extends best wishes in all future endeavors to every member of the Newport Central Catholic Softball Team.

Section 4. When the House adjourns this day it does so in deep appreciation of the Newport Central Catholic Softball Team.

Section 5. The clerk of the House of Representatives is hereby directed to transmit a copy of this resolution to Newport Central Catholic, 13 Carothers Road, Newport KY, 41071.

There being no objection **HR 24** was adopted.

Representative Lile moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Lile moved the adoption of the following **HR 25**:

HR 25, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Frederic A. Butterworth.

With deepest respect, we pay homage and tribute to Frederic A. Butterworth.

WHEREAS, Frederic A. Butterworth, who was born on January 23, 1930, a native of Andover, Massachusetts, and long-time resident of Louisville, Jefferson County, Kentucky, traversed these earthly bounds on May 16, 1997; and

WHEREAS, Frederic A. Butterworth was the loving son of Fred Butterworth and Louise Whiteway Butterworth, who preceded him in death; and

WHEREAS, Frederic A. Butterworth was the devoted husband of Renee Mohr Butterworth; and he was the loving brother of two brothers, Donald and Gerald Butterworth, and a sister, Carol Butterworth; and

WHEREAS, Frederic A. Butterworth was a retired Army lieutenant colonel who served his country with distinction during the Vietnam War; he was a member of the Veterans of Foreign Wars, Post 1181; and he was a member of the American Legion; and

WHEREAS, all who knew and admired Frederic A. Butterworth will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement and loss upon the passing of Frederic A. Butterworth and does extend to his family its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Frederic A. Butterworth.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Renee Mohr Butterworth, 13500 Horncastle Way, Louisville, Kentucky 40272.

There being no objection **HR 25** was adopted.

Representative Richards moved the adoption of the following **Legislative Citation No. 35**. Agreed.

To all to Whom These Presents Shall Come, Greetings: Know Ye, That G. Michael Murphy having been given Legislative Recognition upon being named Small Business Person of the Year by the Bowling Green Area Chamber of Commerce honoring him for his generous contributions to the community; on Motion of Speaker Jody Richards is hereby deemed by this honorable body worthy of its special acknowledgments and is deemed an Outstanding Citizen of the Commonwealth and vested with all the privileges and responsibilities therein. **Legislative Citation No. 35** was adopted without objection.

Floor Amendments (Cont.)

Floor Amendment No. 5 to **HB 4**, by Representative Cave:

On page 8, line 1, by deleting "***873,828,600***" and inserting in lieu thereof "***873,903,600***";

On page 8, after line 4 and before line 5, by inserting the following:

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $75,000 for the promotion of research development clients and for the promotion of development of Coldstream Farm.;

On page 11, line 16, by deleting "***154,179,700***" and inserting in lieu thereof "***154,204,700***";

On page 11, line 20, by deleting "***379,915,500***" and inserting in lieu thereof "***379,940,500***";

On page 11, after line 25 and before line 26, by inserting the following:

Included in the above General Fund appropriation in fiscal year 1997-98 is an additional $25,000 for the promotion of research development clients.;

On page 13, line 12, by deleting "***835,479,000***" and inserting in lieu thereof "***835,579,000***"; and

On page 13, line 16, by deleting "***2,114,355,600***" and inserting in lieu thereof "***2,114,455,600***".

Motions, Petitions and Communications (Cont.)

Representative Stumbo moved that no further business be conducted on this day other than the filing of floor amendments. Agreed. Representative Stumbo moved that when the House does adjourn this day, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn, it does so until 4:00 p.m., May 27, 1997. Agreed.

Recess

Representative Stumbo moved that the House recess until 12 noon. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Cont.)

Floor Amendment No. 2 to the Committee Substitute to **HB 5**, by Representative Ford:

On page 18, line 27 after "***Cabinet***", by inserting the following new language: "***provided that any expenses in excess of ten dollars ($10) shall be accompanied by a receipt, unless the Finance and Administration Cabinet increases the minimum expense amount for which a receipt is required as provided in this Section. The required information and documentation shall be provided***"; and

On page 19, line 1, by removing the closing bracket, extending the strike through through the comma, and placing the closing bracket after the comma; and

On page 19, line 2, after the ".", by inserting the following new language: "***The Finance and Administration Cabinet may promulgate an administrative regulation to increase the minimum expense amount for which a receipt is required, not to exceed twenty-five dollars ($25).***

Floor Amendment No. 1 to the Committee Substitute to **HB 5**, by Representative Ford:

On page 22, line 25, by deleting "***as provided by***"; and

On page 22, by deleting line 26 in its entirety; and

On page 22, line 27, by deleting "***Cabinet***", by removing the brackets and strikethroughs, by inserting, following "of", the word "***five***", by placing brackets around and striking through "one", by inserting "***($500)*** following "dollars", by placing brackets around and striking through "($100)", and by placing brackets around and striking through "and all supplies".

Floor Amendment No. 6 to **HB 4**, by Representative Damron:

On page 10, on line 24, after the word "***Act.***" by inserting the following:

"***Prior to the expenditure of any of the above General Fund appropriation for the purpose of administrative costs, a budget plan shall be submitted to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education which identifies the estimated expenditures and purposes for the administrative costs. The budget plan shall include, but is not limited to, expenditures relating to the Kentucky Community and Technical College System board of regents, the office of the president, the chancellors' offices for the University of Kentucky Community College System, and the Technical Institutions' Branch. A report which identifies the actual expenditures and purposes for the administrative costs of the Kentucky Community and Technical College System shall be reported to the interim joint committees on a timely basis.***"

Floor Amendment No. 7 to **HB 4**, by Representative Palumbo:

On page 7, line 24 by deleting "***263,336,400***" and inserting in lieu thereof "***263,836,400***"; and

On page 8, line 1 by deleting "***849,260,600***" and inserting in lieu thereof "***849,760,600***"; and

On page 8, after line 2 but before line 3 by inserting the following:

"***Included in the above General Fund appropriation in fiscal year 1996-97 is $500,000 for the purchase of the Calumet Farm Trophy Collection.***"; and

On page 13, line 12 by deleting "***771,157,000***" and inserting in lieu thereof "***771,657,800***"; and

On page 13, line 16 by deleting "***2,019,962,900***" and inserting in lieu thereof "***2,020,462,900***".

Adjournment

Representative L. Clark moved that the House adjourn until 4:00 p.m., May 27, 1997. The motion to adjourn was adopted by voice vote.

TUESDAY, MAY 27, 1997

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Richard Hendricks, Church of Christ, Morgantown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Bowling.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 23, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Weaver moved that the rules be suspended to grant floor privileges to guests and to present a Military Citation to be read by Colonel Allen Able honoring Representative James Zimmerman. Agreed.

Representative Zimmerman briefly addressed the House.

Representative Anderson moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Anderson moved the adoption of the following **Legislative Citation No. 37**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends The Students in Free Enterprise Club from Ashland Community College for spending over seventeen hundred hours completing twenty-two projects designed to help the community and upon attaining First Runner-Up status in their league and being named Rookie Team of the Year at the SIFE 1997 International Exposition in May. This competition of SIFE Regional Championship Teams drew 1,200 college students from the top 20 percent of SIFE teams in the United States. They were the only first-year team to win first runner-up honors, which placed them among the top ten community college SIFE teams in the world. This outstanding team previously won Regional Championship honors and the Kraft Food Success 2000 Award in April. This honorable body is pleased to join Representative Hoby Anderson in honoring this group of outstanding young men and women and wishing them continued success. **Legislative Citation No. 37** was adopted without objection.

Orders of the Day

HB 5, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 5**. Agreed.

Representative Geveden moved that **HB 5**, by way of Committee Substitute, be passed.

Representative Ford moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 5**.

Representative Damron inquired if Floor Amendment No. 2 to the Committee Substitute to **HB 5** was the right amendment being voted upon. The Speaker ruled that Floor Amendment No. 2 to the Committee Substitute to **HB 5** was the right amendment being voted on.

On the roll call on Floor Amendment No. 2 to the Committee Substitute to **HB 5** the vote was **Yeas 65**--R. Adams, Adkins, Alexander, Allen, Anderson, Ballard, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, P. Clark, Coleman, Colter, Cox, Crall, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Johns, Kerr, Lee, Lile, Lovell, Marcotte, Maricle, Mason, McKee, Miniard, Murgatroyd, Napier, Nesler, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riggs, Riner, Scott, Siler, Simpson, Stacy, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Worthington, Zimmerman. **Nays 29**--J. Adams, A. Arnold, J. Arnold, Barrows, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Curd, Deskins, Geveden, Gray, Hatcher, Horlander, Jenkins, Jordan, Lindsay, Long, Marzian, Moberly, Newsome, Pope, Rasche, Stein, Wayne, Weaver, Wilkey, Yonts. Floor Amendment No. 2 to the Committee

Substitute to **HB 5** was adopted.

Representative Ford moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 5**. Agreed.

Representative Geveden moved that **HB 5** by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 2. (See May 27, 1997 roll call on **HB 5** - Appendix)

HB 5, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 5**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of Committee Amendment No. 1 to **HB 4**. Agreed.

Representative Siler moved the adoption of Floor Amendment No. 2 to **HB 4**. Agreed.

Representative Moberly moved that **HB 4**, as amended, be passed.

Representative Palumbo moved the adoption of Floor Amendment No. 7 to **HB 4**. Representative Long inquired if Floor Amendment No. 7 was germane to **HB 4**. The Speaker ruled that Floor Amendment No. 7 was not germane to **HB 4**.

Representative Brandstetter moved the adoption of Floor Amendment No. 5 to **HB 4**. Representative Long inquired if Floor Amendment No. 5 was germane to **HB 4**. The Speaker ruled that Floor Amendment No. 5 was not germane to **HB 4**.

Representative Damron moved the adoption of Floor Amendment No. 6 to **HB 4**.

On the roll call the vote was **Yeas 86**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Brandstetter, Bratcher, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Colter, Cox, Crall, Crenshaw, Crimm, Damron, Deskins, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Johns, Kerr, Lee, Lile, Long, Lovell, Marcotte, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 12**--Allen, Baugh, Brown, Collins, Curd, Geveden, Gray, Jenkins, Jordan, Maricle, Marzian, Stein. Floor Amendment No. 6 to **HB 4** was adopted.

Representative Damron moved the adoption of Floor Amendment No. 4 to **HB 4**.

On the roll call the vote was **Yeas 23**--J. Adams, Adkins, Alexander, Anderson, Brown, Bruce, Collins, Cox, Damron, Deskins, Gee, Gooch, Kerr, Mason, Palumbo, Pope, Ratliff, Stewart, Stumbo, Turner, Vincent, Walton, Worthington. **Nays 70**--R. Adams, Allen, A. Arnold, J. Arnold, Ballard, Baugh, Brandstetter, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Colter, Crall, Crenshaw, Crimm, Curd, DeWeese, Ford, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, McKee, Miniard, Moberly, Murgatroyd, Napier, Nunn, Polston, Rader, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Thomas, Treesh, Wayne, Weaver, Yonts, Zimmerman. Floor Amendment No. 4 to **HB 4** was rejected.

Representative Mason moved the adoption of Floor Amendment No. 3 to **HB 4**.

On the roll call the vote was **Yeas 98**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 0**. Floor Amendment No. 3 to **HB 4** was adopted.

Representative Moberly moved that **HB 4**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 16. (See May 27, 1997 roll call on **HB 4** - Appendix)

HB 4, as amended, was passed

Representative Moberly moved the adoption of Floor Amendment No. 8, Title to **HB 4**. Agreed; and the Title was agreed to.

Representative Moberly moved that the vote by which **HB 4**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills and Resolution under the rules previously suspended: **HR 12**, Representative Heleringer; **HB 5**, Representative Riggs.

Motions, Petitions and Communications

Representative Coleman moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 32**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day expressing profound sympathy to The Barnes Family in loving memory of Captain Paul Douglas Barnes, Jr. The House of Representatives joins Representative Jack Coleman in extending its deepest regrets to this family and to all who share in the untimely and tragic loss of Paul Douglas Barnes, Jr., beloved son of Doug and Carolyn Barnes and cherished brother of Shannon and L. W. Barnes. This outstanding young Kentuckian died while serving with courage and honor in the United States Marine Corps. After completing his studies at Anderson County High School, he graduated with honors from the Virginia Military Institute and joined the Marines in order to fulfill his desire to be a pilot. This honored son of the Commonwealth possessed great love for his family, friends, Kentucky and country music; his enthusiasm for life and the courage with which he lived will continue to serve as a beacon for others to follow. **Legislative Citation No. 32** was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 32** is as follows: J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bratcher, Brown, Bruce, De. Butler, Dw. Butler, Callahan, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Maricle, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman.

Representative L. Clark moved that the rules be suspended to allow him to co-sponsor **Legislative Citation No. 32**. Agreed.

Adjournment

Representative Stumbo moved that the House adjourn until 12 noon, May 28, 1997.

On the roll call the vote was **Yeas 84**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Cox, Crall, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Maricle, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 3**--Lile, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, MAY 28, 1997

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Steve Pattison, Capital City Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Brandstetter, Clarke, Crenshaw, Deskins, Hoover, Long, Walton, Wilkey, Worthington, and Yonts.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 27, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Stacy moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Stacy moved the adoption of the following **Legislative Citation No. 38**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby expresses its deepest gratitude to The Tru Tones for their uplifting performance of "My Old Kentucky Home" on this day in the Capitol. This highly regarded group of talented Kentucky singers has performed for the Morehead Harvest Festival, the Corn Festival in Powell County, and the 100th Anniversary Celebration of the West Liberty Women's Club; further, they have performed at various fundraisers for Habitat for Humanity and for senior citizen centers as well as singing the National Anthem at basketball and football games for Morehead State University and local high schools. This honorable body of the House of Representatives is pleased to join with Representative John Will Stacy in applauding this accomplished group of Kentuckians and extending our best wishes for their continued success and good fortune. **Legislative Citation No. 38** was adopted without objection.

Representative Sims moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Sims moved the adoption of the following **Legislative Citation No. 39**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Horse Cave Theatre Southern Kentucky's Professional Theatre for the outstanding contribution this nationally recognized theatre has made to the state of the arts in the Commonwealth of Kentucky. The quality performances of comedy, drama, the classics and original Kentucky plays has markedly enhanced the stature of the arts in the Bluegrass State. That this theatre exists has been through the hard work and generosity of many persons; the recognition this theatre has received has been due in large part to the determined and devoted efforts of Kentucky native, Warren Hammack, who has served as the Artistic Director/Producer since 1976, and who is a former recipient of the Artist Award for Lifetime Achievement in the 1995 Governor's Awards in the Arts, with outstanding contributions made by his wife, Pamela White, a skilled performer and Associate Director of the theatre. The members of this honorable body are pleased to join Representative Dottie Sims in commending all those whose efforts have culminated in this ambitious artistic endeavor known as Horse Cave Theatre. **Legislative Citation No. 39** was adopted without objection.

Introduction of Bills and Resolutions

HR 26, by Representatives Richards and Thomas: A RESOLUTION adjourning the House in honor of Dr. Thomas C. Meredith upon the occasion of his retirement as president of Western Kentucky University.

Motions, Petitions and Communications

Representative McKee moved that the rules be suspended to grant floor privileges and to introduce guests. Agreed.

Representative Baugh moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 41**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Audrie Clare Martin. The House of Representatives joins Representative Sheldon Baugh in expressing its deepest sympathy to all who share in the great loss on the passing of this loving wife of Lennie Martin for over 72 years; devoted mother of Marlene McCormick and Milford Martin; and cherished sister of J.C. Slaughter. This outstanding Kentuckian was a homemaker and a member of Mt. Pleasant Baptist Church. Her memory will continue to be an inspiration to all whose lives were illuminated by her earthly sojourn and will surely serve as a beacon for others to follow. **Legislative Citation No. 41** was adopted without objection.

Representative Maricle moved the adoption of the following **Legislative Citation No. 42**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of the victims of the May 28, 1996 tornado in Bullitt County. Whereas, Bullitt County was struck by a devastating tornado on this date, one year ago, this honorable body respectfully joins with Representative Allen Maricle in commending the perseverance and dedication that these courageous citizens exhibited while putting the pieces of their lives and their community back together. Their accomplishments, a year later, are a testament to the strength and resilience of the human spirit. We again extend our prayers that abundance and joy shall be reaped as the harvest for the dedicated citizens who plant the seeds of devotion into the fertile soil of their community. **Legislative Citation No. 42** was adopted without objection.

Representative Lee moved the adoption of the following **Legislative Citation No. 40**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Representative Harry Moberly, Jr. on the upcoming and joyous event of his marriage to Kerrie Bagby George. Whereas, marriage is an honorable and respected estate into which two individuals pledge a troth to become one masterful symphony of life, this prestigious body joins Representative Jimmie Lee in recognizing the significance of the event and extending sincere wishes to Representative Harry Moberly, Jr. and his intended, Kerrie Bagby George, that their life together may be lived in joy and sweet harmony. **Legislative Citation No. 40** was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 40** is as follows:–J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Collins, Colter, Cox, Crall, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Murgatroyd, Napier, Nesler, Newsome, Nunn, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Zimmerman.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 43**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in honor of Madeline True who celebrates, on this day, her 87th birthday; recognizing her as an outstanding Kentuckian whose life is such a beacon of good citizenship and democratic idealism that friends, family and the members of this honorable body join Representative Gippy Graham in extending warmest birthday greetings. **Legislative Citation No. 43** was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 43** is as follows:–J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Collins, Colter, Cox, Crall, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Weaver, Zimmerman.

Representative Thomas moved the adoption of the following **Legislative Citation No. 44**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors David Crowe, Principal Warren Central High School on the occasion of his retirement after a successful career as Principal of Warren Central High School, exemplifying all the qualities the Commonwealth of Kentucky seeks to inspire in the teaching profession. David Crowe has had high expectations for both students and teachers, as well as possessing the compassion, skill and energy required to assist them. This honorable body is pleased to join with Representative Speaker Jody Richards in wishing him continued success and happiness in all his future endeavors. **Legislative Citation No. 44** was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 45**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Mike B. Cobb, Principal L. C. Curry Elementary School on the occasion of his retirement after a successful career as Principal of L. C. Curry Elementary School, exemplifying all the qualities the Commonwealth of Kentucky seeks to inspire in the teaching profession. Mike Cobb has had high expectations for both students and teachers, as well as possessing the compassion, skill and energy required to assist them. This honorable body is pleased to join with Representative Speaker Jody Richards in wishing him continued success and happiness in all his future endeavors. **Legislative Citation No. 45** was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 46**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors William L. Franklin, Principal Warren Elementary School on the occasion of his retirement after a successful career as Principal of Warren Elementary School, exemplifying all the qualities the Commonwealth of Kentucky seeks to inspire in the teaching profession. William Franklin has had high expectations for both students and teachers, as well as possessing the compassion, skill and energy required to assist them. This honorable body is pleased to join with Representative Speaker Jody Richards in wishing him continued success and happiness in all his future endeavors. **Legislative Citation No. 46** was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 47**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Harold Dexter, Principal McNeill Elementary School on the occasion of his retirement after a successful career as Principal of McNeill Elementary School, exemplifying all the qualities the Commonwealth of Kentucky seeks to inspire in the teaching profession. Harold Dexter has had high expectations for both students and teachers, as well as possessing the compassion, skill and energy required to assist them. This honorable body is pleased to join with Representative Speaker Jody Richards in wishing him continued success and happiness in all his future endeavors. **Legislative Citation No. 47** was adopted without objection.

Representative Adkins moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 27, by Representative Adkins: A RESOLUTION honoring and congratulating Catlettsburg Elementary School for receiving a federal government award and being named a Blue Ribbon School.

Representative Adkins moved the adoption of the following **HR 27**:

HR 27, A RESOLUTION honoring and congratulating Catlettsburg Elementary School for receiving a federal government award and being named a Blue Ribbon School.

WHEREAS, it is appropriate for this honorable body to reflect upon the achievements of individuals and institutions in the Commonwealth of Kentucky; and

WHEREAS, Catlettsburg Elementary School was chosen as one of seven schools in the Commonwealth of Kentucky as a Blue Ribbon School; and

WHEREAS, Catlettsburg Elementary School received a superb rating during an on-site visit from a representative of the South Carolina Board of Education; and

WHEREAS, the findings of the on-site visit noted an exceptional standard in the curriculum, classroom sizes, and extracurricular activities of Catlettsburg Elementary School; and

WHEREAS, Catlettsburg Elementary School received national recognition and a federal government award for excellence; and

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly commends Catlettsburg Elementary School for its level of professionalism and its sincere concern for the welfare of Kentucky students.

Section 2. The commitment, perseverance, and standard of achievement demonstrated by Catlettsburg Elementary School bring great credit upon the school, its students, and the Commonwealth of Kentucky.

Section 3. This honorable body extends best wishes to the students, faculty, and staff of Catlettsburg Elementary School.

Section 4. The clerk of the House of Representatives is hereby directed to transmit a copy of this resolution to Catlettsburg Elementary School, 3348 Court Street, Catlettsburg, Kentucky 41129.

There being no objection **HR 27** was adopted.

Roll call to show co-sponsors of **HR 27** is as follows:--J. Adams, R. Adams, Adkins, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Cox, Crall, Crimm, Damron, DeWeese, Ford, Gee, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Lovell, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Polston, Pope, Rader, Ratliff, Reinhardt, Richards, Siler, Simpson, Sims, Stacy, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Zimmerman.

Representative Thomas moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Thomas moved the adoption of the following **HR 26**:

HR 26, A RESOLUTION adjourning the House in honor of Dr. Thomas C. Meredith upon the occasion of his retirement as president of Western Kentucky University.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special individuals who have enriched the lives of many people in the Commonwealth of Kentucky; and

WHEREAS, Dr. Thomas C. Meredith received his bachelor's degree from Kentucky Wesleyan College in 1963, a master's degree in educational administration from Western Kentucky University in 1966, and a doctorate in educational administration from the University of Mississippi in 1971; and

WHEREAS, Dr. Thomas C. Meredith served ten years with the Board of Trustees of State Institutions of Higher Learning, and he has taught courses in educational administration, curriculum development, and public relations at Indiana University Southeast, Jackson State University, Mississippi State University, and the University of Mississippi; and

WHEREAS, his professional memberships include president-elect of the Sun Belt Athletic Conference, chair of the Renaissance Group, member of the Southern Regional Education Board, and chair of the 1991 United Way of Southern Kentucky, Inc.; and

WHEREAS, Dr. Thomas C. Meredith, through the years, has demonstrated extraordinary vision and leadership, and his contributions to the quality of education in Kentucky are beyond measure and will have a lasting impact; and

WHEREAS, Dr. Thomas C. Meredith will assume the position of chancellor of the University of Alabama on June 1, 1997; and

WHEREAS, Dr. Thomas C. Meredith will retire as president of Western Kentucky University on May 31, 1997;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House hails and commends Dr. Thomas C. Meredith for the effort he has given in dedicated service to Western Kentucky University and to the Commonwealth of Kentucky, while demonstrating strong character and providing an element of invincible strength to all the lives he has touched.

Section 2. The passion, dedication, intelligence, and social consciousness Dr. Thomas C. Meredith has brought to the Commonwealth of Kentucky will never be forgotten, and his influence will continue.

Section 3. This honorable body extends best wishes in all future endeavors to Dr. Thomas C. Meredith upon the occasion of his retirement as president of Western Kentucky University.

Section 4. When the House adjourns this day, it does so in deep appreciation and honor of Dr. Thomas C. Meredith.

Section 5. The clerk of the House is hereby directed to transmit a copy of this resolution to Dr. Thomas C. Meredith, President's Office WAB, #1 Big Red Way, Western Kentucky University, Bowling Green KY, 42101-3576.

There being no objection **HR 26** was adopted.

Announcements

The following meetings were announced:

Minority Caucus, 9:00 a.m., May 29, Room 111 or 113

Majority Caucus, May 29, upon recess, Supreme Court Chambers

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., May 29, 1997.

On the roll call the vote was **Yeas 76**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crall, Crimm, Curd, Damron, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Zimmerman. **Nays 4**--Allen, Lile, Nunn, Stewart.

The motion to adjourn was adopted.

THURSDAY, MAY 29, 1997

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of May 28, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **HB 2**. Message received in regard to **HB 1**: The Senate has passed **HB 1** with Senate Committee Amendment No. 1, No. 2, No. 26, No. 5, No. 6, No. 7, No. 8, No. 14, No. 15, No. 16, No. 17, No. 18, No. 20, No. 22, No. 27, No. 28, No. 29, No. 30, No. 31, No. 32, No. 33 and Senate Floor Amendment No. 41, No. 50, No. 43, No. 59, No. 60, No. 67, No. 68 and respectfully request concurrence of this Honorable Body. (Time: 10:10 a.m.)

Representative Thomas moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 28, by Representatives Richards and Thomas: A RESOLUTION honoring and congratulating Rich Pond Elementary School in Warren County for being named a Blue Ribbon School by the United States Department of Education.

Representative Thomas moved the adoption of the following **HR 28**:

HR 28, A RESOLUTION honoring and congratulating Rich Pond Elementary School in Warren County for being named a Blue Ribbon School by the United States Department of Education.

WHEREAS, it seems appropriate for this body to reflect upon excellent achievement by individuals and institutions in the Commonwealth of Kentucky; and

WHEREAS, Rich Pond Elementary School is one of seven schools in the Commonwealth of Kentucky to be named Blue Ribbon Schools; and

WHEREAS, the Blue Ribbon Award is one of the highest honors that can be given to a school; and

WHEREAS, the students, faculty, and staff of Rich Pond Elementary School have distinguished themselves by maintaining a level of excellence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly commends Rich Pond Elementary School for its level of professionalism and for its sincere concern for the welfare of Kentucky's students.

Section 2. The passion, dedication, and standard of achievement that Rich Pond Elementary School have demonstrated bring great credit upon that school and the Commonwealth of Kentucky.

Section 3. This honorable body extends best wishes to the students, faculty, and staff of Rich Pond Elementary.

Section 4. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Larry Blankenbaker, Principal, Rich Pond Elementary School, 530 Rich Pond Road, Bowling Green, Kentucky 42104.

There being no objection **HR 28** was adopted.

Introduction of Resolutions

HR 29, by Representative L. Clark: A RESOLUTION relating to the City of Louisville-Jefferson County Compact.

HR 30, by Representative R. Adams: A RESOLUTION honoring and congratulating Dry Ridge Elementary for being named a Blue Ribbon School.

Orders of the Day

HB 1, with Senate Committee Amendments and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 1** is as follows:

On page 198, after line 7, by inserting the following:

"SECTION 149. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is created in the Department of Adult Education and Literacy of the Workforce Development Cabinet, a special fund to be known as the adult education and literacy initiative fund, which shall consist of moneys appropriated by the General Assembly, gifts, grants, other sources of funding, public and private, and interest accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be carried forward to be used only for the purposes specified in this section.

(2) The purpose of the adult education and literacy initiative fund shall be to provide incentive grants to qualified providers to develop innovative approaches to address problems of adult education and literacy in Kentucky, to develop cost-effective delivery systems for adult education and literacy, and to research the effectiveness of different models for providing adult education and literacy programming. Criteria for the incentive grants and the process by which they are awarded shall be developed by the Department for Adult Education and Literacy with the advice of the State Advisory Council for Adult Education and Literacy. The State Board for Adult and Technical Education shall approve the grants to be funded based on the recommendations of the Department for the Adult Education and Literacy."

And by renumbering all subsequent sections accordingly.

Representative Callahan moved that the House concur in Senate Committee Amendment No. 1 to **HB 1**. Agreed.

The Senate Floor Amendment No. 67 to **HB 1** is as follows:

On page 15, line 6, by inserting the following between "*section.*" and "*The*": "*The evaluation of all applications that include a proposal to conduct a research study shall be subject to review and ranking by an external panel of experts.*".

Representative Callahan moved that the House concur in Senate Floor Amendment No. 67 to **HB 1**. Agreed.

The Senate Floor Amendment No. 68 to **HB 1** is as follows:

On page 8, line 18, by deleting all language after "*consider*" and by deleting lines 19 through 23 and inserting in lieu thereof: "*, interview, and propose three (3) or more candidates for the position of president. The council may seek additional names from the search firm or from other sources.*"; and

On page 9, between lines 20 and 21 by inserting "*(7) The president shall be accorded a contract to serve for a term not to exceed five (5) years, which is renewable at the pleasure of the council.*"; and

On page 9, line 21, by changing "*(7)*" to "*(8)*"; and

On page 10, line 4, by changing "*(8)*" to "*(9)*"; and

On page 10, line 9, by changing "*(9)*" to "*(10)*"; and

On page 10, line 13, by changing "*(10)*" to "*(11)*"; and

On page 10, by deleting line 15 in its entirety.

Representative Callahan moved that the House concur in Senate Floor Amendment No. 68 to **HB 1**. Agreed.

The Senate Committee Amendment No. 7 to **HB 1** is as follows:

On page 150, between lines 14 and 15, by inserting the following:

(3) Upon receipt of a written authorization from an employee of the Kentucky Community and Technical College System, the board shall deduct dues from the employee's paycheck for employee membership organizations. Dues shall be deducted at a rate established by the organization, and shall be discontinued upon written notification by an

employee to both the system and the employee organization. On a quarterly basis, the Kentucky Community and Technical College System shall provide to each employee membership organization an updated list that includes the names and home addresses of the employees who are having dues deducted from their paychecks for the purpose of maintaining membership in that organization."

Representative Callahan moved that the House concur in Senate Committee Amendment No. 7 to **HB 1**. Agreed.

The Senate Committee Amendment No. 8 to **HB 1** is as follows:

On page 3, by deleting lines 3 through 11 in their entirety.

Representative Callahan moved that the House concur in Senate Committee Amendment No. 8 to **HB 1**. Agreed.

The Senate Committee Amendment No. 15 to **HB 1** is as follows:

On page 26, line 2, after "***colleges,***" by deleting "***and***"; and

On page 26, line 3, after "***bequests***" by inserting "***, and private funds***".

Representative Callahan moved that the House concur in Senate Committee Amendment No. 15 to **HB 1**. Agreed.

The Senate Committee Amendment No. 20 to **HB 1** is as follows:

On page 27, by deleting lines 7 through 17 in their entirety and inserting in lieu thereof the following:

"***(6) Any regular full-time employee may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any state-supported postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term.***"; and

On page 27, line 18, by changing "***(8)***" to "***(7)***".

Representative Callahan moved that the House concur in Senate Committee Amendment No. 20 to **HB 1**. Agreed.

The Senate Committee Amendment No. 16 to **HB 1** is as follows:

On page 6, line 24 by deleting "***implementation plans***" and inserting "***strategic implementation plan***" in lieu thereof; and

On page 10, line 5 after "***the***" the first time it appears by inserting "***strategic***"; and

On page 11, line 7 by deleting "***An***" and inserting "***A strategic***"; and

On page 11, line 10 after "***the***" the second time it appears by inserting "***strategic***"; and

On page 11, line 10 after "***the***" the third time it appears by deleting "***state's strategic postsecondary education agenda***" and inserting "***strategic agenda***" in lieu thereof; and

On page 12, line 7 by deleting "***for postsecondary education***"; and

On page 12, lines 11 and 12 by deleting "***for postsecondary education***"; and

On page 116, line 15 by deleting "***state strategic postsecondary education***" and inserting "***strategic***" in lieu thereof; and

On page 116, line 18 by inserting "***strategic***" before "***implementation***"; and

On page 116, line 18 by deleting "***state strategic postsecondary education***" and inserting "***strategic***" in lieu thereof; and

On page 116, line 20 after "***and***" the first time it appears by inserting "***strategic***"; and

On page 121, lines 13 and 14 by deleting "***state's strategic postsecondary education agenda***" and inserting "***strategic***" in lieu thereof; and

On page 124, lines 3 and 4 by deleting "***Strategic Committee on Postsecondary Education, the state strategic postsecondary education agenda and the***" and inserting "***strategic agenda and the strategic***" in lieu thereof; and

On page 132, lines 12 and 13 by deleting "***for postsecondary education***"; and

On page 133, lines 1 and 2 by deleting "***state strategic agenda for postsecondary education***" and inserting "***strategic agenda***" in lieu thereof; and

On page 146, lines 25 and 26 by deleting "***state strategic agenda for postsecondary education***" and inserting "***strategic agenda***" in lieu thereof; and

On page 148, line 12 by deleting "***for postsecondary education***"; and

On page 159, line 24 by deleting "***Council on Postsecondary Education***" and inserting "***General Assembly***" in lieu thereof; and

On page 174, lines 2 and 3 by deleting "***state strategic agenda for postsecondary education***" and inserting "***strategic agenda***" in lieu thereof; and

On page 199, line 16 by deleting "an implementation plan be developed and".

Representative Callahan moved that the House concur in Senate Committee Amendment No. 16 to **HB 1**. Agreed.

The Senate Committee Amendment No. 22 to **HB 1** is as follows:

On page 124, line 6, by deleting "***standardized accounting***" and inserting in lieu thereof "***financial reporting***".

Representative Callahan moved that the House concur in Senate Committee Amendment No. 22 to **HB 1**. Agreed.

The Senate Committee Amendment No. 27 to **HB 1** is as follows:

On page 110, line 8, after the semicolon";" by placing opening and closing brackets around and striking through "and"; and

On page 110, line 9, after "interests" by inserting the following: "***; and***"

8. Associations representing independent, nonprofit colleges and universities".

Representative Callahan moved that the House concur in Senate Committee Amendment No. 27 to **HB 1**. Agreed.

The Senate Committee Amendment No. 28 to **HB 1** is as follows:

On page 117, line 4, after "***System***" by inserting the following:"***. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions***"; and

On page 132, line 10, after "institution." by inserting "***In carrying out its statewide mission, the University of Kentucky shall conduct statewide research and provide statewide services including, but not limited to, agricultural research and extension services, industrial and scientific research, industrial technology extension services to Kentucky employers, and research related to the doctoral, professional, and post-doctoral programs offered within the university. The university may establish and operate centers and utilize state appropriations and other resources to carry out the necessary research and service activities throughout the state. The university may enter into joint research and service activities with other universities in order to accomplish its statewide mission.***"; and

On page 132, by deleting the last sentence in subsection (2) lines 13 through 16.

Representative Callahan moved that the House concur in Senate Committee Amendment No. 28 to **HB 1**. Agreed.

The Senate Committee Amendment No. 30 to **HB 1** is as follows:

On page 112, line 17, after "***System***", by inserting "***, and except the faculty member appointed under subsection (3) of Section 72 of this Act***"

Representative Callahan moved that the House concur in Senate Committee Amendment No. 30 to **HB 1**. Agreed.

The Senate Committee Amendment No. 31 to **HB 1** is as follows:

On page 5, line 1, after "***the***", by adding "***following public institutions:***"; and

On page 5, line 6, after "***(14)***", by inserting: ""***"Public" means operated with state support;***

(15)"; and

On page 5, line 8, by changing "***15***", to "***16***"; and

On page 5, line 12, by changing "***16***", to "***17***"; and

On page 5, line 15, by changing "***17***", to "***18***"; and

On page 5, line 17, by changing "***18***", to "***19***"; and

On page 18, line 11, after "***community colleges,***", by changing "***state-supported***" to "***public***"; and

On page 27, line 15, by changing "***state-supported***" to "***public***"; and

On page 99, line 21, after "at", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 120, line 26, after "in the", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 122, line 7, after "of new", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 124, line 27, by changing "***state-supported***" to "***public***"; and

On page 131, line 26, after "other", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 137, line 15, by deleting "***state***" and by removing the brackets and strikethroughs from "~~[public]~~", and by bracketing and striking through "supported"; and

On page 137, line 18, after "of the", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 145, line 22, after "of any", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 148, line 24, by deleting the "-" after "state", and after "of a", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 156, line 13, by deleting the "-" after "state", and after "year", by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 156, line 15, after "year", by deleting the "-" after "state", and by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 170, lines 12 and 13, after "other" on line 12, by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 190, lines 23 and 24, after "and" on line 23, by bracketing and striking through "state-supported" and inserting "***public***"; and

On page 191, line 6, after "schools,", by bracketing and striking through "state-supported" and inserting "***public***".

Representative Callahan moved that the House concur in Senate Committee Amendment No. 31 to **HB 1**. Agreed.

The Senate Committee Amendment No. 33 to **HB 1** is as follows:

On page 116, line 12, after "***consecutive***" insert "***full six (6) year***"; and

On page 135, line 17, after "***consecutive***" insert "***full six (6) year***"; and

On page 141, line 20, after "***consecutive***" insert "***full six (6) year***"; and

On page 171, line 12, after "***consecutive***" insert "***full six (6) year***".

Representative Callahan moved that the House concur in Senate Committee Amendment No. 33 to **HB 1**. Agreed.

The Senate Committee Amendment No. 32 to **HB 1** is as follows:

On page 11, line 3, after the semicolon "***;***" delete the word "***and***"; and

On page 11, line 6, before the period "***.***" insert the following:

"***; and***

4. Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction, free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty"

Representative Callahan moved that the House concur in Senate Committee Amendment No. 32 to **HB 1**. Agreed.

The Senate Floor Amendment No. 50 to **HB 1** is as follows:

On page 3, line 26, by deleting "***Section 72***" and inserting in lieu thereof "***Section 70***"; and

On page 4, by deleting lines 8 through 14 in their entirety and inserting in lieu thereof, "***created in Section 17 of this Act that shall be responsible for:***

(a) The operation of the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

(b) The review and approval of degree programs forwarded by the University of Kentucky board of trustees, and budgetary review and approval prior to action by the board of trustees of proposed allocations of funds within the University of Kentucky Community College System to insure consistency with the Kentucky Community and Technical College System's responsibilities and mission."; and

On page 5, line 4, after "***University,***" by inserting "***the University of Kentucky Community College System,***"; and

On page 10, line 12, by deleting "***Section 73***" and inserting in lieu thereof "***Section 71***"; and

On page 12, line 4, by deleting "***Section 83***" and inserting in lieu thereof "***Section 82***"; and

On page 13, line 26, after "***System,***" by inserting "***the University of Kentucky Community College System,***"; and

On page 17, line 1, after "***university***" by inserting "***, the University of Kentucky Community College System,***"; and

On page 17, line 14, by deleting "***or***" and inserting in lieu thereof "***, the University of Kentucky Community College System, and***"; and

On page 18, line 1, after "***System***" by inserting "***and the University of Kentucky Community College System***"; and

On page 18, line 13, after "***universities***" by inserting "***, the University of Kentucky Community College System,***"; and

On page 20, by deleting lines 13 through 27, and inserting in lieu thereof:

"***(1) The Kentucky Community and Technical College System is hereby created and established and shall be responsible for:***

(a) The operation of the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and

(b) The review and approval of degree programs forwarded by the University of Kentucky board of trustees, and budgetary review and approval prior to action by the board of trustees of proposed allocations of funds within the University of Kentucky Community College System to insure consistency with the Kentucky Community and Technical College System's responsibilities and mission.

(2) The president of the Kentucky Community and Technical College System shall be responsible for:"; and

On page 21, lines 1 through 21, by deleting them in their entirety; and

On page 21, line 22, by deleting "***for the respective branches***" and inserting in lieu thereof "***under its jurisdiction***"; and

On page 21, line 24, by deleting " ***of the respective branch***"; and

On page 22, line 11, by inserting "***and***" after "***needed;***"; and

On page 22, line 12, by deleting "***; and***" and inserting an underscored period in lieu thereof; and

On page 22, by deleting lines 13 and 14 in their entirety; and

On page 24, line 9, by deleting "***Section 67***" and inserting in lieu thereof "***Section 65***"; and

On page 24, line 10, by deleting "***Section 36***" and inserting in lieu thereof "***Section 34***"; and

On page 25, line 7, and continuing through page 27, line 23, by deleting Section 19 in its entirety and renumbering subsequent sections accordingly; and

On page 29, lines 16 through 26, by deleting Section 24 in its entirety and renumbering subsequent sections accordingly; and

On page 30, line 2, after "***universities***" by inserting "***, the University of Kentucky Community College System,***"; and

On page 46, line 19 by deleting "***for the*** ", and

On page 46, lines 20 and 21, by deleting all new language; and

On page 61, line 13, by deleting "***chancellor for the Technical Institutions' Branch***" and inserting in lieu thereof "***president***"; and

On page 81, line 24, after the "(f)" by inserting "***The president of the Kentucky Community and Technical College System***" and by placing a closing bracket before the ";" ; and

Beginning on page 81, line 25 and continuing through page 82, line 5 by removing all underlined language, strikethroughs and brackets; and

On page 82, line 2, by inserting "***Postsecondary***" after "on" and bracketing and striking through "Higher"; and

On page 82, line 27, by removing the brackets and strikethroughs; and

On page 83, line 11, by removing the brackets and strikethroughs; and

On page 84, line 11, by removing the brackets and strikethroughs; and

On page 87, line 21 , by removing all new language and removing the bracket and strikethroughs; and

On page 87, line 22, by removing the strikethroughs on "~~University of Kentucky~~", and by inserting before "~~Kentucky Tech~~" the words "***Kentucky Community and Technical College System***" and inserting an opening bracket before the second "~~Kentucky~~"; and by placing brackets around and striking through the comma on line 22; and

On page 102, line 22, by deleting "***any community colleges or***"; and

On page 111, lines 4 through 6, by deleting all new language, and by removing the brackets and strikethroughs on line 6; and

On page 112, lines 15 through 17, by removing the new language; and

On page 112, lines 17 and 18, by removing the brackets and strikethroughs; and

On page 112, line 18, by inserting before the period "***and the teaching faculty and nonteaching personnel serving on the board of regents for the Kentucky Community and Technical College System***"; and

On page 113, line 11, by deleting "***Section 70***" and inserting in lieu thereof "***Section 68***"; and

On page 113, line 19, by deleting "***Section 70***" and inserting in lieu thereof "***Section 68***"; and

On page 116, line 25, by deleting "***Section 83***" and inserting in lieu thereof "***Section 81***"; and

On page 117, line 3, following the word "***universities***", by inserting "***, the University of Kentucky Community College System,***"; and

On page 118, line 5, after the word "***universities***" by inserting "***, the University of Kentucky Community College System,***"; and

On page 118, line 9, following the word "***universities***", by inserting "***, the University of Kentucky Community College System,***"; and

On page 120, line 1 following the word "***universities***", by inserting "***, the University of Kentucky Community College System,***"; and

On page 120, line 14, by removing the brackets and strikethroughs from "University of"; and

On page 120, line 15, by deleting "***and Technical***"; and

On page 122, line 26, by deleting "***Section 65***" and inserting in lieu thereof "***Section 63***"; and

On page 129, line 2, by removing the bracket and strikethroughs; and

On page 129, line 3, by removing the strikethrough and bracket and deleting the new language and after "System" by inserting "***and the Kentucky Community and Technical College System***"; and

On page 132, line 26, by deleting "***Section 73***" and inserting in lieu thereof "***Section 71***"; and

On page 133, lines 9 and 10, by removing the brackets and strikethroughs; and

On page 134, line 13 and lines 21 through 27, by removing all brackets and strikethroughs on this page; and

On page 135, lines 1 through 3, by removing the strikethroughs and bracket; and

On page 135, line 24, by deleting "***Section 139***" and inserting in lieu thereof "***Section 133***; and

On page 140, line 3, by removing the brackets and strikethroughs, and by deleting "***and***"; and

On page 140, line 4, by deleting the word "***Technical***" and by deleting "***Section 110***" and inserting in lieu thereof "***Section 108***"; and

On page 140, lines 24 through 27, by deleting them in their entirety; and

On page 141, line 1, by deleting "***2. Four (4)***" and inserting in lieu thereof "***Eight (8)***"; and

On page 141, line 3, by deleting "***Section 70***" and inserting in lieu thereof "***Section 68***"; and

On page 142, line 18, by deleting "***one (1) faculty member elected from the***"; and

On page 142, line 19, by deleting "***community colleges and one (1) faculty member***" and inserting in lieu thereof "***two (2) faculty members***"; and

On page 142, line 21, by deleting "***of each branch***"; and

On page 143, line 16, by deleting "***chancellor,***"; and

On page 143, line 19, by deleting "***One (1) member shall be a representative***"; and

On page 143, line 20, by deleting "***from the community colleges and one (1) member shall be a representative***" and inserting in lieu thereof "***Two (2) members shall be representatives***"; and

On page 144, line 14, by deleting "***One (1) shall***"; and

On page 144, line 15, by deleting the line it its entirety; and

On page 144, line 16, by deleting "***technical institutions.***" and after the word "***shall***" by inserting "***represent different technical institutions and shall***"; and

On page 144, line 25, by deleting "***Section 73***" and inserting in lieu thereof "***Section 71***"; and

On page 147, line 4, after the word "***of***" by inserting "***its***"; and

On page 147, line 5, by deleting line 5 in its entirety and inserting in lieu thereof "***request and that of the***"; and

On page 147, line 9, by deleting "***each branch of***"; and

On page 147, line 11, by deleting "***chancellor for the respective branch and the***"; and

On page 147, line 12, by deleting the first "***the***" and inserting in lieu thereof "***its***" and by deleting "***for the***"; and

On page 147, line 13, by deleting "***Technical Institutions' Branch***"; and

On page 147, lines 15 through 21, by deleting them in their entirety and inserting in lieu thereof:

> "***2. The University of Kentucky board of trustees shall transmit the biennial budget request for the University of Kentucky Community College System to the board of regents of the Kentucky Community and Technical College System. The board of regents shall review the request and transmit the biennial budget for the University of Kentucky Community College System, along with recommendations, to the council for its action.***"; and

On page 147, line 25, after the word "***System***" by deleting "***except for the***"; and

On page 147, line 26, by deleting "***Lexington Community College***"; and

On page 147, line 27, by deleting it in its entirety; and

On page 148, lines 1 through 9, by deleting them in their entirety; and

On page 148, line 10, by inserting "***4.***______" before any language; and

On page 150, line 25, by deleting "***Section 139***" and inserting in lieu thereof "***Section 133***"; and

On page 150, line 27, by deleting "***Section 139***" and inserting in lieu thereof "***Section 133***"; and

On page 151, line 9, by deleting "***Section 139***" and inserting in lieu thereof "***Section 133***"; and

On page 153, line 2, by removing the brackets and strikethroughs and by deleting "***and Technical***"; and

On page 153, line 3, by deleting "***The Kentucky Community and Technical College System***"; and by deleting the bracket and strikethrough; and

On page 153, line 4, by deleting the bracket and strikethroughs; and

On page 153, line 15, following the word "***System***" by inserting "***and the University of Kentucky Community College System***; and

On page 154, lines 12 through 27, by deleting them in their entirety; and

On page 155, lines 1 through 19, by deleting them in their entirety; and

On page 155, line 20, by deleting "***(5)***" and inserting in lieu there of "***(3)***"; and

On page 155, lines 23 through 27, by deleting them in their entirety; and

On page 156, line 1, by deleting "***7. The Technical Institutions' Branch***" and inserting in lieu thereof:

> "***(4) The Kentucky Community and Technical College System***"; and

On page 156, line 10, by deleting the brackets and strikethroughs and by deleting "***and Technical***"; and

On page 156, line 26, by deleting all the language after "Mason County."; and

On page 156, line 27, by deleting it in its entirety; and

On page 157, line 1, by deleting it in its entirety and inserting in lieu thereof "***New***"; and

On page 157, beginning on line 6 and continuing through page 159, line 4, by deleting sections 113, 114, 115, and 116 in their entirety and renumbering subsequent sections accordingly; and

On page 159, line 7, following "***the***" by inserting "***University of***" and by deleting "***and Technical***"; and

On page 159, line 9, by deleting all language after the word "***Recommend***"; and on line 10, by deleting "***president from***"; and by inserting after "***candidates***" the words "***for the community college president***"; and by deleting "***nominated by the chancellor of the***"; and on line 11, by deleting "***community college system***"; and

On page 159, line 13, by deleting "***Evaluate***" and inserting in lieu thereof "***Participate in the evaluation process of***"; and

On page 159, line 16, by deleting "***Approve***" and inserting in lieu thereof "***Review and advise regarding***" and by deleting "***Kentucky Community***" and inserting in lieu thereof "***chancellor***"; and

On page 159, by deleting all text on line 17; and

On page 159, line 18, by deleting "***Adopt and amend***" and inserting in lieu thereof "***Review and advise regarding***" and by deleting "***board of***" and inserting in lieu thereof "***chancellor;***"; and

On page 159, lines 19 and 20, by deleting these lines in their entirety ; and

On page 159, line 21, by deleting "***Approve and implement***" and inserting in lieu thereof "***Review and advise regarding***"; and

On page 160, lines 2 and 3, by deleting these lines in their entirety and inserting in lieu thereof "***trustees.***"; and

On page 171, line 7, by deleting "***Section 73***" and inserting in lieu thereof "***Section 71***"; and

On page 181, line 23, by deleting "***Section 110***" and inserting in lieu thereof "***Section 108***"; and

On page 189, lines 9 through 19, by deleting them in their entirety; and

On page 194, line 11, by deleting Section 145 in its entirety and renumbering subsequent sections accordingly; and

On page 194, line 26, by deleting "***chancellor for the Technical Institutions' Branch in***" and inserting "***president of***"; and

On page 198, line 24, by deleting it in its entirety; and

On page 198, line 25, by deleting "System,"; and

On page 198, line 26, by deleting "systems" and inserting in lieu thereof "system".

Representative Callahan moved that the House refuse to concur in Senate Floor Amendment No. 50 to **HB 1**.

Speaker Pro Tempore L. Clark presiding. Speaker Richards resumed the Chair.

On the roll call to refuse to concur in Senate Floor Amendment No. 50 to **HB 1** the vote was **Yeas 62**--R. Adams, A. Arnold, Bowling, Bratcher, Brown, Burch, De. Butler, Dw. Butler, Callahan, L. Clark, P. Clark, Coleman, Collins, Colter, Crall, Crenshaw, Crimm, Curd, DeWeese, Geveden, Gooch, G. Graham, Gray, Hatcher, Haydon, Heleringer, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nunn, Rasche, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stumbo, Thomas, Treesh, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 37**--J. Adams, Adkins, Alexander, Allen, Anderson, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bruce, Cave, Cox, Damron, Deskins, Ford, Gee, D. Graham, Hoffman, Hogancamp, Hoover, Kerr, Maricle, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Ratliff, Reinhardt, Stein, Stewart, Stine, Turner, Vincent, Walton.

The House refused to concur in Senate Floor Amendment No. 50 to **HB 1**.

The Senate Committee Amendment No. 2 to **HB 1** is as follows:

On page 3, line 24 after "***(5)***" by deleting the remaining language on lines 24 and 25; and

On page 3, line 26 by deleting "***(6)***" and by changing "***72***" to "***71***"; and

On page 4, line 1 by changing "***(7)***" to "***(6)***"; and

On page 4, line 4 by changing "***(8)***" to "***(7)***"; and

On page 4, line 7 by changing "***(9)***" to "***(8)***"; and

On page 4, line 18 by changing "***(10)***" to "***(9)***"; and

On page 4, line 22 by changing "***(11)***" to "***(10)***"; and

On page 4, line 25 by changing "***(12)***" to "***(11)***"; and

On page 5, line 1 by changing "***(13)***" to "***(12)***"; and

On page 5, line 6 by changing "***(14)***" to "***(13)***"; and

On page 5, line 8 by changing "***(15)***" to "***(14)***"; and

On page 5, Line 12 by changing "***(16)***" to "***(15)***"; and

On page 5, line 15 by changing "***(17)***" to "***(16)***"; and

On page 5, line 16, by changing "***6***" to "***5***"; and

On page 5, line 17 by changing "***(18)***" to "***(17)***"; and

On page 5, by deleting lines 22 through 27 in their entirety: and

On page 6, by deleting lines 1 through 27 in their entirety; and

On page 7, by deleting lines 1 through 27 in their entirety; and

On page 8, by deleting lines 1 through 11 in their entirety; and

By renumbering all sections, accordingly; and

On page 8, line 14, by deleting all words after "***(1)***" and by inserting in lieu thereof "***The***"; and

On page 8, by deleting lines 24 through 27; and

On page 9, by deleting lines 1 and 2; and

On page 9, line 3, by changing "***(3)***" to "***(2)***"; and

On page 9, line 8, by changing "***(4)***" to "***(3)***"; and

On page 9, line 15, by changing "***(5)***" to "***(4)***"; and

On page 9, line 17, by changing "***(6)***" to "***(5)***"; and

On page 9, line 21, by changing "***(7)***" to "***(6)***"; and

On page 10, line 4, by changing "***(8)***" to "***(7)***"; and

On page 10, line 9, by changing "***(9)***" to "***(8)***"; and

On page 10, line 12, by changing "***73***" to "***72***"; and

On page 10, line 13, by changing "***(10)***" to "***(9)***"; and

On page 10, line 15, by changing "***(11)***" to "***(10)***"; and

On page 12, line 4, by changing "***83***" to "***82***"; and

On page 14, line 18, by changing "***7***" to "***6***"; and

On page 15, line 15, by changing "***7***" to "***6***:"; and

On page 16, line 14, by changing "***7***" to "***6***"; and

On page 16, line 24, by changing "***16***" to "***15***"; and

On page 17, line 10, by changing "***7***" to "***6***"; and

On page 17, line 22, by changing "***7***" to "***6***"; and

On page 18, line 8, by changing "***7***" to "***6***"; and

On page 24, line 9, by changing "***67***" to "***66***"; and

On page 24, line 10, by changing "***36***" to "***35***"; and

On page 28, line 25, by deleting the comma after "***Kentucky***" and by inserting "***and***" in lieu thereof; and

On page 28, line 26, by deleting the words "***, and the Strategic Committee on Postsecondary Education,***"; and

On page 44, line 10, by changing "***18***" to "***17***"; and

On page 72, line 18, by changing "***18***" to "***17***"; and

On page 111, line 6, by changing "***96***" to "***95***"; and

On page 113, line 11, by changing "***70***" to "***69***"; and

On page 113, line 19, by changing "***70***" to "***69***"; and

On page 116, line 15, by deleting the word "***with***" and by inserting in lieu thereof a period "***.***"; and

On page 116, by deleting line 16 in its entirety; and

on page 116, line 19, by changing "***6***" to "***5***"; and

On page 116, line 20, after the word "***plan***", by deleting "***with the advice and counsel***", and by inserting in lieu thereof a semicolon "***;***", and

On page 116, by deleting line 21 in its entirety; and

On page 116, line 25, by changing "***83***" to "***82***"; and

On page 118, lines 7 and 8, by deleting the words "***the Strategic Committee on Postsecondary Education and,***"; and

On page 122, line 26, by changing "***65***" to "***64***"; and

On page 124, line 3, by deleting the words "***, the Strategic Committee on Postsecondary Education***"; and

On page 124, line 9, by changing "***5***" to "***4***"; and

On page 124, lines 15 and 16, by deleting the words "***, the Strategic Committee on Postsecondary Education,***"; and

On page 129, line 9, by changing "***6***" to "***5***"; and
On page 132, line 26, by changing "***73***" to "***72***"; and
On page 135, line 24, by changing "***139***" to "***138***"; and
On page 140, line 4, by changing "***110***" to "***109***"; and
On page 141, line 3, by changing "***70***" to "***69***"; and
On page 144, line 25, by changing "***73***" to "***72***"; and
On page 150, line 25, by changing "***139***" to "***138***"; and
On page 150, line 27, by changing "***139***" to "***138***"; and
On page 151, line 9, by changing "***139***" to "***138***"; and
On page 157, line 18, by changing "***19***" to "***18***"; and
On page 160, line 3, by changing "***100***" to "***99***"; and
On page 171, line 7, by changing "***73***" to "***72***"; and
On page 181, line 23, by changing "***110***" to "***109***".

Representative Callahan moved that the House refuse to concur in Senate Committee Amendment No. 2 to **HB 1**.

On the roll call to refuse to concur in Senate Committee Amendment No. 2 to **HB 1** the vote was **Yeas 54**--R. Adams, Adkins, A. Arnold, Barrows, Bowling, Brown, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Coleman, Collins, Curd, DeWeese, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Horlander, Jenkins, Johns, Jordan, Lee, Lindsay, Long, Lovell, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nunn, Rasche, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 43**--J. Adams, Allen, Anderson, J. Arnold, Ballard, Brandstetter, Bratcher, Bruce, Dw. Butler, Cave, P. Clark, Colter, Crall, Crenshaw, Crimm, Damron, Deskins, Ford, Gee, Gooch, Heleringer, Hoffman, Hogancamp, Hoover, Kerr, Lile, Marcotte, Maricle, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Ratliff, Reinhardt, Stewart, Stine, Treesh, Turner, Vincent, Walton, Zimmerman.

The House refused to concur in Senate Committee Amendment No. 2 to **HB 1**.

The Senate Committee Amendment No. 26 to **HB 1** is as follows:

On page 9, line 15 by deleting "***new***" and inserting "***proposed***" in lieu thereof; and
On page 9, line 16 by deleting "***in accordance with***" and inserting "***to be incorporated in***"; and
On page 11, line 7 by deleting "***An***" and inserting "***A strategic***" in lieu thereof; and
On page 11, line 8 by deleting "***and all***" and inserting "***which shall serve as a guide for***" in lieu thereof; and
On page 11, line 8 by deleting "***shall***" and inserting "***to***" in lieu thereof; and
On page 11, line 21 after "***measures***" by inserting "***, where practical,***"; and
On page 12, line 6 after "***years***" by inserting "***under subsection (8) of this section***; and
On page 12, between lines 12 and 13 by inserting the following:

"***(8)(a) No later than October 1 of each odd-numbered year, the council shall present a draft report of its proposed strategic agenda to the Governor and the General Assembly with recommendations for long-term and biennial statewide priorities. Upon receipt of the proposed strategic agenda, the Legislative Research Commission shall schedule its October meeting in odd-numbered years to serve as a forum for the council, the legislators, and the Governor to exchange ideas about the future of postsecondary education in Kentucky. The Legislative Research Commission shall refer the council's report to the appropriate interim legislative committees. The co-chairs of interim legislative committees with jurisdiction shall convene the committees to consider the strategic agenda and send a written response to the council and the Legislative Research Commission within forty (40) days of its receipt. The Governor shall send a written response to the council within forty (40) days of its receipt.***

(b) The Council on Postsecondary Education shall make a final report on the proposed strategic agenda on the first day the General Assembly convenes in regular session during even-numbered years.

(c) No later than December 1 of each even-numbered year, the council shall submit a report on the status of the implementation of the strategic agenda and proposed changes to the Legislative Research Commission for consideration by the General Assembly during the organizational session held during odd-numbered years. During the organizational session, the General Assembly shall schedule a public meeting to serve as a forum for the council, the legislators, and the Governor to exchange ideas about the progress of the implementation

of the strategic agenda, and any proposed changes shall be assigned to the appropriate interim legislative committees for review during the interim."; and

On page 124, line 14 after "***January***" by deleting "***31***" and inserting "***1***" in lieu thereof; and

On page 124, lines 15 and 16 after "***Governor***" by deleting "***the Strategic Committee on Postsecondary Education, and***";

On page 124, line 17 after "***Commission***" by inserting "***, and the General Assembly under Section 6 of this Act***"; and

On page 131, line 15 after "***(5)***" by inserting "***By October 1 of each year under Section 6 of this Act,***"; and by making the "T" in "The" lower case.

Representative Callahan moved that the House refuse to concur in Senate Committee Amendment No. 26 to **HB 1**. Agreed.

The Senate Committee Amendment No. 17 to **HB 1** is as follows:

On page 30, lines 8 to 23, by deleting Section 26 in its entirety; and

By renumbering subsequent sections; and

On page 3, line 26, by changing "***72***" to "***71***"; and

On page 10, line 12, by changing ""***73***" to "***72***"; and

On page 12, line 4, by changing "***83***" to "***82***"; and

On page 24, line 9, by changing "***67***" to "***66***"; and

On page 24, line 10, by changing "***36***" to "***35***"; and

On page 111, line 6, by changing "***96***" to "***95***"; and

On page 113, line 11, by changing "***70***" to "***69***"; and

On page 113, line 19, by changing "***70***" to "***69***"; and

On page 116, line 25, by changing "***83***" to "***82***"; and

On page 122, line 26, by changing "***65***" to "***64***"; and

On page 132, line 26, by changing "***73***" to "***72***"; and

On page 135, line 24, by changing "***139***" to "***138***"; and

On page 140, line 4, by changing "***110***" to "***109***"; and

On page 141, line 3, by changing "***70***" to "***69***"; and

On page 144, line 25, by changing "***73***" to "***72***"; and

On page 150, line 25, by changing "***139***" to "***138***"; and

On page 150, line 27, by changing "***139***" to "***138***"; and

On page 151, line 9, by changing "***139***" to "***138***"; and

On page 160, line 3, by changing "***100***" to "***99***"; and

On page 171, line 7, by changing "***73***" to "***72***"; and

On page 181, line 23, by changing "***110***" to "***109***".

Representative Callahan moved that the House refuse to concur in Senate Committee Amendment No. 17 to **HB 1**. Agreed.

The Senate Committee Amendment No. 18 to **HB 1** is as follows:

On page 136, line 12, after the word "confidential", by inserting "***and shall not require a student's Social Security number to identify the student***".

Representative Callahan moved that the House refuse to concur in Senate Committee Amendment No. 18 to **HB 1**.

On the roll call to refuse to concur with Senate Committee Amendment No. 18 to **HB 1** the vote was **Yeas 50**--J. Adams, R. Adams, A. Arnold, Barrows, Bowling, Brown, Bruce, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Coleman, Crenshaw, Curd, DeWeese, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Horlander, Jenkins, Johns, Jordan, Lee, Lindsay, Long, Lovell, Marzian, Mason, McKee, Murgatroyd, Palumbo, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stein, Stumbo, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 48**--Adkins, Alexander, Allen, Anderson, J. Arnold, Ballard, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, P. Clark, Collins, Colter, Crall, Crimm, Damron, Deskins, Ford, Gee, Gray, Heleringer, Hoffman, Hogancamp, Hoover, Kerr, Lile, Marcotte, Maricle, Miniard, Napier, Nesler, Newsome, Nunn, Polston, Pope, Rader, Ratliff, Reinhardt, Riner, Stacy, Stewart, Stine, Treesh, Turner, Vincent, Walton, Zimmerman.

The House refused to concur in Senate Committee Amendment No. 18 to **HB 1**.

The Senate Committee Amendment No. 29 to **HB 1** is as follows:

On page 11, line 3, after the semicolon "*;*" by deleting the word "*and*"; and

On page 11, line 6, by deleting the period "*.*" and by inserting "*; and*"; and

On page 11, between lines 6 and 7, by inserting the following:

"*4. Identify the academic programs to be made available to the citizens of the Commonwealth through the Commonwealth Virtual University under Section 16 of this Act.*"; and

On page 19, line 15, after the word "*programs*" by inserting "*identified in the strategic agenda under Section 6 of this Act and*"; and

On page 19, line 18, after the word "*Education*" by inserting a period "*.*" and deleting the remainder of lines 18 through 20 in their entirety and inserting in lieu thereof the following: "*In meeting the needs of a major metropolitan area, Northern Kentucky University, working in collaboration with the state's doctoral degree granting institutions, shall ensure access to the broad array of postgraduate degrees necessitated by serving a rapidly expanding population.*"; and

On page 19, lines 21 through 27, after "*(2)*" by deleting lines 21 through 27 in their entirety and inserting in lieu thereof the following: "*The council shall ensure the involvement of the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate.*; and

On page 20, line 1, by deleting line 1 in its entirety; and

On page 20, line 2, after the word "*council*" by deleting the remainder of line 2 in its entirety; and

On page 20, line 3, before the word "*shall*" delete "*Advisory Committee,*"; and

On page 20, line 4, after "*systems*" by inserting "*to be used by the Commonwealth Virtual University*"; and

On page 20, line 7, after "*delivered by*" by deleting "*distance learning*"; and by inserting "*the Commonwealth Virtual University; however, this does not preclude the University of Kentucky and the University of Louisville or independent colleges from offering baccalaureate and master's degree programs or other course offerings, and community colleges and technical institutions from offering associate and technical degree programs or other courses through the Commonwealth Virtual University.*"

Representative Geveden moved that the House refuse to concur in Senate Committee Amendment No. 29 to **HB 1**.

On the roll call to refuse to concur in Senate Committee Amendment No. 29 to **HB 1** the vote was **Yeas 59**--J. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Brown, Bruce, Burch, De. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Crenshaw, Curd, Damron, DeWeese, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Long, Lovell, Marzian, Mason, McKee, Moberly, Murgatroyd, Nunn, Palumbo, Polston, Rasche, Richards, Riner, Scott, Siler, Sims, Stacy, Stein, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 33**--Allen, Anderson, Baugh, Bowling, Brandstetter, Dw. Butler, Cave, Colter, Crall, Crimm, Deskins, Ford, Gee, Hogancamp, Hoover, Kerr, Marcotte, Maricle, Miniard, Napier, Rader, Ratliff, Reinhardt, Riggs, Simpson, Stewart, Stine, Stumbo, Treesh, Turner, Vincent, Walton, Zimmerman.

The House refused to concur in Senate Committee Amendment No. 29 to **HB 1**.

The Senate Committee Amendment No. 6 to **HB 1** is as follows:

On page 150, between lines 14 and 15, by inserting the following:

"*(3) The board of regents for the Kentucky Community and Technical College System shall establish a salary schedule for all faculty and staff of the system. The salary schedule shall be based on the faculty person's or staff person's years of service within the system and all credentials, including but not limited to, education, professional awards, and career development training. The board shall update the salary schedule annually. A faculty person or staff person shall not lose salary or compensation as a consequence of the establishment of the salary schedule.*"

Representative Callahan moved that the House refuse to concur in Senate Committee Amendment No. 6 to **HB 1**. Agreed.

The Senate Floor Amendment No. 60 to **HB 1** is as follows:

On page 10, line 15, after the subsection number "***(11)***" by deleting the remainder of line 15 in its entirety and by inserting in lieu thereof "***At appointment, the president may be accorded a contract, not to exceed five (5) years, and it may be renewable at the pleasure of the council.***"

Representative Callahan moved that the House refuse to concur in Senate Floor Amendment No. 60 to **HB 1**. Agreed.

The Senate Floor Amendment No. 59 to **HB 1** is as follows:

On page 136, line 17, before the period ".", by inserting "***; however, individually identifiable information shall not be maintained, transmitted, or released by any public supported institution of higher education, unless required by law or court order, without the fully informed prior written consent of the student, or the parents of the student, if the student is a minor***"

Representative Callahan moved that the House refuse to concur in Senate Floor Amendment No. 59 to **HB 1**.

On the roll call to refuse to concur in Senate Floor Amendment No. 59 to **HB 1** the vote was **Yeas 51**--J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Brown, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Coleman, Collins, Crenshaw, Curd, Geveden, G. Graham, Gray, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Long, Lovell, Marzian, Mason, McKee, Miniard, Moberly, Palumbo, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stein, Stumbo, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 42**--Adkins, Alexander, Allen, Anderson, Baugh, Brandstetter, Bratcher, Bruce, Dw. Butler, Cave, P. Clark, Colter, Crall, Crimm, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, Heleringer, Hogancamp, Hoover, Kerr, Lile, Lindsay, Marcotte, Maricle, Murgatroyd, Nunn, Rader, Ratliff, Reinhardt, Riner, Stacy, Stewart, Stine, Treesh, Turner, Vincent, Walton, Zimmerman.

The House refused to concur in Senate Floor Amendment No. 59 to **HB 1**.

The Senate Committee Amendment No. 5 to **HB 1** is as follows:

On page 132, line 17, after "provide" by inserting "***comprehensive***"; and

On page 132, line 18, after "nature" by inserting "***through the Lexington Community College that are***" and by placing brackets around and striking through "in its own community"; and

On page 132, line 19, by inserting at the beginning of the line before the word "college" the following: "***colleges that make up the Kentucky Community and Technical College System. The Lexington Community College shall receive its fair and equitable portion of the funds appropriated to the board of trustees for the community colleges that shall bring its funding level to the same benchmark as that of the community colleges managed by the Kentucky Community and Technical College System. The funds shall be earmarked for the exclusive use of Lexington Community College to accomplish its strategic objectives, including but not limited to program development, acquisition of technology, and professional development of faculty and staff***"; and on line 19, by placing brackets around and striking through "college system, as provided by KRS Chapter 164".

Representative Callahan moved that the House refuse to concur in Senate Committee Amendment No. 5 to **HB 1**.

On the roll call to refuse to concur in Senate Committee Amendment No. 5 to **HB 1** the vote was **Yeas 54**--J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Bowling, Brown, Burch, De. Butler, Dw. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Crall, Curd, Geveden, Gooch, G. Graham, Gray, Hatcher, Haydon, Horlander, Jenkins, Johns, Jordan, Lee, Long, Marcotte, Marzian, McKee, Miniard, Moberly, Murgatroyd, Napier, Nunn, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Thomas, Treesh, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 41**--Adkins, Alexander, Allen, Anderson, Barrows, Baugh, Brandstetter, Bratcher, Cave, Colter, Crenshaw, Crimm, Damron, Deskins, DeWeese, Ford, Gee, D. Graham, Hoffman, Hogancamp, Hoover, Kerr, Lile, Lovell, Maricle, Mason, Nesler, Palumbo, Polston, Pope, Rader, Reinhardt, Stacy, Stein, Stewart, Stine, Stumbo, Turner, Vincent, Walton, Zimmerman.

The House refused to concur in Senate Committee Amendment No. 5 to **HB 1**.

The Senate Committee Amendment No. 14 to **HB 1** is as follows:

On page 149, between lines 12 and 13, by inserting the following:

"***(c) The board of regents of the Kentucky Community and Technical College System has full power to suspend or remove any teacher, professor, or employee that it is authorized to appoint, but a teacher, professor, or employee shall not*** *be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct. A teacher, professor, or employee shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him or her to make defense before the board by counsel or otherwise and to introduce testimony that shall be heard and determined by the board.*".

Representative Callahan moved that the House refused to concur in Senate Committee Amendment No. 14 to **HB 1**.

On the roll call to refuse to concur in Senate Committee Amendment No. 14 to **HB 1** the vote was **Yeas 56**--J. Adams, R. Adams, A. Arnold, J. Arnold, Barrows, Baugh, Bowling, Burch, De. Butler, Callahan, J. Clarke, Coleman, Crall, Crenshaw, Curd, DeWeese, Geveden, Gooch, Hatcher, Haydon, Hogancamp, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Nesler, Nunn, Pope, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 40**--Adkins, Alexander, Allen, Anderson, Ballard, Brandstetter, Bratcher, Brown, Bruce, Dw. Butler, Cave, L. Clark, P. Clark, Collins, Colter, Crimm, Damron, Deskins, Ford, Gee, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Maricle, Palumbo, Polston, Rader, Ratliff, Riner, Stewart, Turner, Vincent, Wayne.

The House refused to concur in Senate Committee Amendment No. 14 to **HB 1**.

The Senate Floor Amendment No. 41 to **HB 1** is as follows:

On page 198, between lines 7 and 8, by inserting the following:

"SECTION 149. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) (a) A person shall not be appointed by the Governor to the board of regents of the Kentucky Community and Technical College System, the Council on Postsecondary Education, or the Strategic Committee on Postsecondary Education, if the person has contributed more than one thousand dollars ($1,000) in the aggregate, if the person's immediate family members combined have contributed more than one thousand dollars ($1,000) in the aggregate, or if the person and members of his immediate family combined have contributed more than one thousand dollars ($1,000) in the aggregate, to the campaign committee of the sitting Governor during his election campaign or to the political party of the sitting Governor during the duration of his election campaign separately.

(b) During the term of office for which a person is appointed, neither a person appointed to the board of regents of the Kentucky Community and Technical College System, the Council on Postsecondary Education, or the Strategic Committee on Postsecondary Education, nor the members of the person's immediate family, shall contribute to the campaign committee which a sitting Governor may register for a future election campaign for Governor, to the political party of the sitting Governor during the duration of the future election campaign for Governor, or to the campaign committee of a candidate for the General Assembly.

(c) The provisions of this subsection shall apply only to contributions made to a campaign committee and a political party for elections for Governor held in 1999 and thereafter and to contributions to a campaign committee of a candidate for the General Assembly made after the date of the appointment.

(2) For the purposes of this section:

(a) "Immediate family" means the spouse of the person, the parent of the person or spouse, and the child of the person or spouse; and

(b) "Election campaign" means the period of time beginning with the registration of the campaign committee for the primary election immediately preceding the regular election for Governor and ending with the date of the regular election at which the Governor is elected.

(3) The Attorney General, in coordination with the Registry of Election Finance, shall examine each appointment to the board of regents of the Kentucky Community and Technical College System, to the Council on Postsecondary Education, and to the Strategic Committee on Postsecondary Education to determine whether the person has been appointed in violation of subsection (1) of this section. If the Attorney General determines that a violation of subsection (1) of this section has occurred, the Attorney General shall petition the Franklin Circuit Court for a declaratory judgment as to whether a violation of subsection (1) of this section has occurred. If the Franklin Circuit Court finds that a violation of subsection (1) has occurred, the court shall void the appointment and the appointee's position on the board of regents, council, or committee shall be declared vacant."; and

By renumbering the remaining sections accordingly.

Representative Callahan moved that the House refuse to concur in Senate Floor Amendment No. 41 to **HB 1**.

On the roll call to refuse to concur in Senate Floor Amendment No. 41 to **HB 1** the vote was **Yeas 52**--J. Adams,

R. Adams, Adkins, Alexander, A. Arnold, Barrows, Baugh, Bowling, Brown, Burch, De. Butler, Callahan, L. Clark, P. Clark, Coleman, Collins, Crenshaw, Curd, Geveden, Gooch, Gray, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Lindsay, Long, Lovell, Marzian, Mason, McKee, Murgatroyd, Nesler, Nunn, Pope, Rasche, Richards, Riggs, Scott, Siler, Sims, Stacy, Stein, Stumbo, Thomas, Treesh, Weaver, Wilkey, Yonts. **Nays 45**--Allen, Anderson, J. Arnold, Ballard, Brandstetter, Bratcher, Bruce, Dw. Butler, Cave, Colter, Crall, Crimm, Damron, Deskins, DeWeese, Ford, Gee, D. Graham, G. Graham, Heleringer, Hogancamp, Hoover, Kerr, Lee, Lile, Marcotte, Maricle, Miniard, Moberly, Napier, Newsome, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riner, Simpson, Stewart, Stine, Turner, Vincent, Walton, Wayne, Zimmerman.

The House refused to concur in Senate Floor Amendment No. 41 to **HB 1**.

The Senate Floor Amendment No. 43 to **HB 1** is as follows:

On page 198, between lines 7 and 8, by inserting the following:

"SECTION 149. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No member appointed to the board of regents of the Kentucky Community and Technical College System, the Council on Postsecondary Education, or the Strategic Committee on Postsecondary Education shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of a member appointed to the board of regents of the Kentucky Community and Technical College System, the Council on Postsecondary Education, or the Strategic Committee on Postsecondary Education.

(2) No member appointed to the board of regents of the Kentucky Community and Technical College System, the Council on Postsecondary Education, or the Strategic Committee on Postsecondary Education shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Members appointed to the board of regents of the Kentucky Community and Technical College System, the Council on Postsecondary Education, or the Strategic Committee on Postsecondary Education may be candidates for and occupy a city or school district office, if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis."; and

By renumbering the remaining sections accordingly.

Representative Callahan moved that the House refuse to concur in Senate Floor Amendment No. 43 to **HB 1**.

On the roll call to refuse to concur in Senate Floor Amendment No. 43 to **HB 1** the vote was **Yeas 58**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Brown, Burch, De. Butler, Callahan, L. Clark, P. Clark, Coleman, Collins, Crall, Crenshaw, Curd, DeWeese, Geveden, Gooch, G. Graham, Gray, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Lindsay, Long, Marzian, Mason, McKee, Miniard, Moberly, Napier, Nesler, Pope, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Treesh, Wayne, Weaver, Wilkey, Yonts. **Nays 34**--Allen, Anderson, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, Colter, Crimm, Damron, Deskins, Ford, Gee, D. Graham, Heleringer, Hogancamp, Hoover, Kerr, Lile, Marcotte, Maricle, Nunn, Palumbo, Polston, Rader, Rasche, Ratliff, Reinhardt, Riner, Stewart, Turner, Vincent, Walton, Zimmerman.

The House refused to concur in Senate Floor Amendment No. 43 to **HB 1**.

Representative Callahan moved that the Senate be notified that the House has refused to concur in the following Senate Amendments: Senate Committee Amendments No. 2, 5, 6, 14, 17, 18, 26, 29 and Senate Floor Amendments No. 41, 43, 50, 59, 60.

Senate Message

Announcing passage of **HJR 6**. (Time: 12:50 p.m.)

Recess

Representative Stumbo moved that the House to recess until 2:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The following member filed a request to have her name withdrawn as co-sponsor of a Resolution under rules previously suspended: Representative Marzian, **HR 12**.

Senate Message

Message received on **HB 1**: The Senate has refused to recede from its Amendments to **HB 1** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Kelly, Saunders and Karem.

The Committee on Committees appointed the following members to serve on a Conference Committee on **HB 1** to meet in Room 327 at 2:30 p.m.: Representatives L. Clark, Stumbo, Callahan, Barrows, Moberly, Murgatroyd, Zimmerman and Richards.

Recess

Representative Stumbo moved that the House recess until 3:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

A Conference Committee Report was filed on **HB 1**. Representative Stumbo moved that the Conference Committee Report on **HB 1** be adopted. Agreed.

The Committee on Committees appointed the same members of the Conference Committee on **HB 1** to the Free Conference Committee on **HB 1**.

Representative L. Clark moved that the rules be suspended to act upon a Resolution. Agreed.

Representative L. Clark moved the adoption of the following **HR 29**:

HR 29, A RESOLUTION relating to the City of Louisville-Jefferson County Compact.

WHEREAS, the City of Louisville and Jefferson County are part of the most populated urban area in the Commonwealth, and this situation poses unique situations and complexities not often faced by other local governments within the state; and

WHEREAS, the City of Louisville and Jefferson County, in 1986, as a result of action mandated by the 1986 Regular Session of the General Assembly, did enter into the provisions of the City of Louisville-Jefferson County Compact, which required the sharing of revenues and the merger of specified local government services and agencies in order to provide as efficient and effective services as possible to their citizens; and

WHEREAS, the City of Louisville-Jefferson County Compact expires as of June, 1998, and continuation of the original compact or an amended version can only be continued or renegotiated by an action of the General Assembly;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives encourages the Mayor of the City of Louisville and the Louisville Board of Aldermen, along with the Jefferson County Judge/Executive and members of the Jefferson County Fiscal Court, to meet for the purpose of entering into discussions of making formal recommendations to the General Assembly for renegotiating and extending the term of the City of Louisville-Jefferson County Compact past its 1998 anniversary date. These recommendations should be presented to the members of the Jefferson County legislative delegation no later than September 30, 1997.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to the Honorable Jerry Abramson, Mayor, City of Louisville, City Hall-Room 100, Sixth and Jefferson Streets, Louisville, Kentucky 40202; to members of the City of Louisville Board of Aldermen, 601 West Jefferson Street, Louisville, Kentucky 40202; to the Honorable David Armstrong, Jefferson County Judge/Executive, 527 West Jefferson Street, Jefferson County Courthouse, Louisville, Kentucky 40202; and to members of the Jefferson County Fiscal Court, 527 West Jefferson Street, Jefferson County Courthouse, Louisville, Kentucky 40202.

There being no objection **HR 29** was adopted.

Representative Marcotte moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 32, by Representative Marcotte: A RESOLUTION adjourning the House of Representatives in remembrance of the tragic fire at the Beverly Hills Supper Club on May 28, 1977.

Representative Marcotte moved the adoption of the following **HR 32**:

HR 32, A RESOLUTION adjourning the House of Representatives in remembrance of the tragic fire at the Beverly Hills Supper Club on May 28, 1977.

WHEREAS, on behalf of the Northern Kentucky Legislative Delegation, this honorable body desires to memorialize the loss of 165 victims of the Northern Kentucky Supper Club fire; and

WHEREAS, this honorable body recognizes the pain and anguish that the survivors of this tragedy cope with on a daily basis; and

WHEREAS, this honorable body wishes to extend heartfelt sympathy to the families of individuals who perished on that fateful night; and

WHEREAS, the bravery and selflessness of firefighters, police, and club workers, who risked their lives to save others has not gone unnoticed; and

WHEREAS, the magnitude of this tragedy was such that many policies and procedures concerning fire codes, regulation, and enforcement have been adopted in Kentucky as well as across the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body extends sympathy to all citizens of the Commonwealth of Kentucky who were affected by this terrible event.

Section 2. The House of Representatives hails and commends those individuals who went above and beyond the call of duty to preserve lives on this fateful night.

Section 3. When the House of Representatives adjourns this day, it does so in remembrance of the 165 people who were lost in this tragic fire.

Section 4. The Clerk of the House is hereby directed to transmit a copy of this Resolution to the Chair of the Northern Kentucky Legislative Delegation, 10674 Palestine Drive, Union, Kentucky 41091.

There being no objection **HR 32** was adopted.

Roll call to show co-sponsors of **HR 32** is as follows: -- J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Crall, Crimm, Curd, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Yonts, Zimmerman.

Representative Geveden moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 33, by Representative Geveden: A RESOLUTION expressing strong support for the two Kentucky doctors facing unjust deportation from their practices in rural Western Kentucky.

Representative Geveden moved the adoption of the following **HR 33**:

HR 33, A RESOLUTION expressing strong support for the two Kentucky doctors facing unjust deportation from their practices in rural Western Kentucky.

WHEREAS, in October of 1995, two Canadian doctors, David Zetter and Sabina Seitz, were recruited by Columbia PineLake Regional Hospital to serve as physicians in the underserved medical communities of Carlisle and Graves counties; and

WHEREAS, on the advice of their American attorney, the two filed for permanent visas in order to stay and practice in the Commonwealth; and

WHEREAS, in August of 1996, the two doctors were served with notice from the Immigration and Naturalization Service that their applications for permanent visas had been rejected, and that they faced deportation; and

WHEREAS, upon appeal, the doctors were notified that the INS now considered their original applications to be fraudulent, and that a chance to rectify the situation would not be granted; and

WHEREAS, Drs. Zetter and Seitz are outstanding and compassionate members of their communities and, in the time that they have been residents of Western Kentucky, have been accepted as family; and

WHEREAS, both Carlisle and Graves counties have been classified as "Medically Underserved Areas" in a report compiled by the Kentucky Department of Health Services, the University of Kentucky, the University of Louisville, the Kentucky Primary Care Association, and the Foundation for Kentucky's Primary Care; and

WHEREAS, Dr. Zetter is the only physician in rural Carlisle county and sees an average of forty patients a day, and, in addition, if deported, would leave 41 of 96 elderly residents of the Birchtree Health Care Center without an attending physician; and

WHEREAS, Drs. Zetter and Seitz were recruited as a result of a three year search, and are looked on as highly committed professionals who genuinely love their work, and as outstanding members of the communities in which they practice; and

WHEREAS, if the INS is allowed to be successful in their deportation effort, not only will Drs. Zetter and Seitz be banned from the United States for life, but so will their two and a half year old son, Daniel; and

WHEREAS, in response to remarkable public outcry, Senator Wendell Ford has taken swift action to restore the lives and practices of the two doctors, first, by obtaining a promise from Subcommittee on Immigration Chairman Senator Spencer Abraham that a letter requesting an agency report would be sent that would essentially serve to immediately halt the INS process by blocking any final action against the couple until the subcommittee reviews the case, and secondly, by filing a private relief bill in the Senate on behalf of the two doctors and their son that would allow the usual immigration procedures to be bypassed in this extraordinary case; and

WHEREAS, in addition, other members of the Kentucky congressional delegation, including Senator Mitch McConnell and Representative Ed Whitfield, have joined in the fight to keep two of Western Kentucky's prized citizens in their communities; and

WHEREAS, recently members of the community publicly expressed both their outrage and their support of Dr. Zetter in an impromptu rally outside his now closed office, and began circulating a petition in support of their position; and

WHEREAS, in the wake of widespread public outcry regarding the influx of illegal aliens into our country and their flagrant abuse of our public aid systems, the attack of two well-respected members of their communities and the Commonwealth of Kentucky is outrageous and a superfluous abuse of federal power;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hereby honors and supports Drs. Zetter and Seitz of Western Kentucky in their fight to remain and practice medicine in the Commonwealth of Kentucky.

Section 2. This honorable body hereby urges the Immigration and Naturalization Service to reconsider the extraordinary circumstances surrounding this situation and to grant permanent visas to Drs. Zetter and Seitz and their son, Daniel, and to allow these outstanding members of the Commonwealth community to resume their well-respected practice of medicine in rural Western Kentucky.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Dr. David Zetter and Dr. Sabina Seitz, 1112 Links Lane, Mayfield, Kentucky 42066; Mayor Robert Hocker, Mayor of Arlington, City Hall, Arlington, Kentucky 42021; Arthur Bryan, Mayor of Mayfield, 211 E. Broadway, Mayfield, Kentucky 42066; John Roberts, Carlisle County Judge Executive, P.O. Box 279, Bardwell, Kentucky 42023; Tony Smith, Graves County Judge Executive, Courthouse, Mayfield, Kentucky 42066; Mr. Jeff Olson, acting Officer in Charge of the Kentucky Immigration and Naturalization Service, Gene Snyder Office Building, 6th Floor, 601 W. Broadway, Louisville, Kentucky 40202; Ms. Doris Meissner, Commissioner of the Immigration and Naturalization Service, 425 Eye St. NW, Washington, D.C. 20536; Senator Wendell H. Ford, Room 173 Russell Senate Office Building, Washington, D.C. 20515; Senator Mitch McConnell, Suite 361A Russell Senate Office Building, Washington, D.C. 20510; Representative Ed Whitfield, 1541 Longworth HOB, Washington, D.C. 20515; Representative Ron Lewis, 223 Cannon HOB, Washington, D.C. 20515, Representative Anne Northup, 1004 Longworth HOB, Washington, D.C. 20515; Representative Jim Bunning, 2437 Rayburn HOB, Washington, D.C. 20515; Representative Harold Rogers, 2468 Rayburn HOB, Washington, D.C. 20515; Representative Scotty Baesler, 2463 Rayburn HOB, Washington, D.C. 20515; Senator Spencer Abraham, Chairman of the Immigration Subcommittee, 329 Dirksen Senate Office Building, Washington, D.C. 20510; and President Bill Clinton, 1600 Pennsylvania Avenue, Washington, D.C. 20500.

There being no objection **HR 33** was adopted.

Representative Baugh moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 22**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds the efforts of and offers its congratulations to Charles Richard "Bubba" Wells, Jr. Ohio Valley Conference Player of the Year. This excellent basketball player finished his career at Austin Peay State University, Clarksville, Tennessee, as its all-time leading scorer, as well as third on the Ohio Valley Conference all-time scoring list, with 2,267 points, in addition to setting other records. This athlete's story is all the more compelling because he overcame two major injuries, necessitating surgery to both legs, and returned to active play in full form both times. The courage and tenacity displayed by this excellent ballplayer merited him the title "Basketball 1996-1997 National Comeback Player of the Year" by InfoSport magazine. The House of Representatives joins Representative Sheldon Baugh in honoring this outstanding native of Russellville, Kentucky, on his many achievements and wishes him every success in future endeavors. **Legislative Citation No. 22** was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 48**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Edith V. Hinton. The House of Representatives joins Representative Sheldon Baugh in expressing its deepest sympathy to all who share in the loss on the passing of this outstanding Kentuckian, daughter of the late George Sherman and Elizabeth Crafton, loving mother of two cherished daughters and two beloved sons who preceded her in death, matriarch to eleven grandchildren, twenty-eight great-grandchildren and three great-great grandchildren. Edith Hinton was retired as a clerk for the U. S. Postal service, was a member of the homemakers club, Chapter 107 of the Lewisburg Eastern Star, Mt. Pleasant Baptist Church, and the Lewisburg Lioness Club. She was a founding member of the Logan County Republican Woman's Club and remained active in the Republican Party. We are indeed honored to remember her remarkable work and offer our sincere condolences to her family. **Legislative Citation No. 48** was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 49**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Pauline Franklin Johnson. The House of Representatives joins Representative Sheldon Baugh in expressing its deepest sympathy to all who share in the great loss on the passing of the loving wife of Merle M. Johnson; devoted mother of Merle M. Johnson, Jr.; cherished sister of Judy F. Lear and James A. Franklin; and loving grandmother and aunt. This outstanding Kentuckian. who earned three academic degrees, was a school teacher for 20 years for the Logan County School System, a teacher and supervisor for the Russellville School System for 20 years, and a member of the Adairville Baptist Church. The memory of Pauline Franklin Johnson will continue to be an inspiration to all whose lives were illuminated by her earthly sojourn and will surely serve as a beacon for others to follow. **Legislative Citation No. 49** was adopted without objection.

Representative Lile moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 31, by Representative Lile: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kelly Burba of Valley Station, Kentucky.

Representative Lile moved the adoption of the following **HR 31**:

HR 31, A RESOLUTION adjourning the House of Representative in loving memory and honor of Kelly Burba of Valley Station, Kentucky.

With heartfelt sorrow we pay homage and tribute to the memory of Kelly Burba.

WHEREAS, on Sunday, the 25th of May, 1997, Kelly Burba was prematurely taken from us in a fatal watercraft accident at the age of 17, and crossed that final bourne from which no traveler returns; and

WHEREAS, Kelly Burba attended Valley Station High School where she was a popular student and a member of the school's volleyball, basketball, and softball teams, the DARE program, the yearbook staff, and the French Club; and

WHEREAS, Kelly Burba's death has devastated her family, friends, and teammates who have gathered together to share their grief, and to create a collage of photographs, commemorating her experiences and accomplishments; and

WHEREAS, Kelly Burba was the adored daughter of Candace and Rocky Burba and the sweetheart of her boyfriend, Duke Mansfield; and

WHEREAS, the passing of Kelly Burba has left a void that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this august body do hereby express their utter sense of bereavement and loss upon the death of Kelly Burba and commend her family and friends to the solace of the Almighty during these dark and painful hours.

Section 2. When the House of Representatives of the Commonwealth of Kentucky adjourns this day, it does so in loving memory and honor of Kelly Burba.

Section 3. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to Candace Burba, Rocky Burba, and Duke Mansfield in care of Ms. Candace Burba, 11815 Pierce Way, Louisville, Kentucky 40272.

There being no objection **HR 31** was adopted.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that his vote be changed from "yea" to "nay" on Senate Committee Amendment No. 14 to **HB 1**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gooch moved that his vote be changed from "yea" to "nay" on Senate Committee Amendment No. 14 to **HB 1**. Agreed.

Representative Vincent moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Vincent moved the adoption of the following **Legislative Citation No. 50**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Calvin McDowell. The House of Representatives joins Representative John Vincent in expressing its deepest sympathy to all who share in the loss on the passing of this outstanding Kentuckian, son of the late James A. and Sarah Hensley McDowell, beloved husband of Gertalene Bowling McDowell, devoted father of Fred McDowell, Randy McDowell, Doug McDowell and Rita Carhart, cherished grandfather of nine grandchildren and two great-grandchildren, and brother of LeRoy McDowell and Garnet McVey. Calvin McDowell was pastor of Route 5 Community Church and the former pastor of Williams Creek Church of God. He was a retired car inspector with C&O Railroad. We remember him on this day for his remarkable deeds while serving God and his people so unselfishly and offer our sincere condolences to his family and friends. **Legislative Citation No. 50** was adopted without objection.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that his vote be changed from "yea" to "nay" on Senate Committee Amendment No. 14 to **HB 1**. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for Senate Messages and filing of Free Conference Committee Reports. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so until 12 noon on Friday, May 30, 1997. Agreed.

Recess

Representative Stumbo moved that the House recess pending the filing of the Free Conference Committee Report. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order. A Free Conference Committee Report was filed on **HB 1**. Representative Stumbo moved that the Journal reflect that copies of the Free Conference Committee Report on **HB 1** will be distributed this day.

Adjournment

Representative Stumbo moved that the House adjourn until 12 noon, May 30, 1997.

The motion that the House adjourn until 12 noon, May 30, 1997 was adopted by voice vote.

FRIDAY, MAY 30, 1997

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. John Callaway of the Presbytery of Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Kerr.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of May 29, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SCR 40**. Message received on **HB 1**: The Senate has adopted the Free Conference Committee Report on **HB 1** and is notifying this Honorable Body that it has repassed the bill as amended in free conference. (Time: 12:10 p.m.)

Representative R. Adams moved that the rules be suspended to act upon a Resolution and to grant floor privileges to guests. Agreed.

Representative R. Adams moved the adoption of the following **HR 30**:

HR 30, A RESOLUTION honoring and congratulating Dry Ridge Elementary for being named a Blue Ribbon School.

WHEREAS, it seems appropriate for this honorable body to reflect upon the achievements and institutions in the Commonwealth of Kentucky; and

WHEREAS, Dry Ridge Elementary School was chosen as one of seven schools in the Commonwealth of Kentucky as a Blue Ribbon School; and

WHEREAS, the Blue Ribbon Award is one of the highest honors that can be given to a school; and

WHEREAS, representatives from Dry Ridge Elementary will travel to Washington, D.C., to receive their honors, and to attend a White House reception;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly commends Dry Ridge Elementary for its level of professionalism, and its sincere concern for the welfare of Kentucky Students.

Section 2. The passion, dedication, and standard of achievement Dry Ridge Elementary has demonstrated brings great credit upon that school and the Commonwealth of Kentucky.

Section 3. This honorable body extends best wishes to the students, faculty, and staff of Dry Ridge Elementary.

There being no objection **HR 30** was adopted.

Representative L. Clark moved the adoption of the following **Legislative Citation No. 55**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Representative John Will Stacy for his recent athletic efforts and for his generous contribution to the notion of the superiority of female athletes on the racquetball court. The entire membership is pleased to join with Representative Larry Clark in extending to John Will its very best wishes for his future success in athletic pursuits and in expressing the hope that Pam Jones will gracefully return the socks she beat off him. **Legislative Citation No. 55** was adopted without objection.

Representative Clarke moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Clarke moved the adoption of the following **Legislative Citation No. 18**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors William E. "Bunny" Davis on the occasion of celebrating the opening of the William E. "Bunny" Davis Recreational Complex in Danville, Kentucky. "Bunny" Davis, Chief Doorkeeper for the Kentucky House of Representatives, has served on the Danville City Commission since 1985. He has had a long and distinguished career in sports, beginning with his days as a football running back at old Bate High School, where he was also named an All-State and All-American basketball player and anchored a championship high school relay team; and followed by being the first black to play semi-pro ball for an integrated team in the south as well as the first black to umpire in the Kentucky High School Athletic Association, the Southeastern Conference and the Ohio Valley Conference. The members of this honorable body are pleased to join Representative Joe Clarke and the Danville City Commission in expressing its gratitude to "Bunny" Davis for his many contributions the quality of athletics in this great Commonwealth. **Legislative Citation No. 18** was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 18** is as follows:--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman.

Representative Gooch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 53**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Hugh E. Sellers. The House of Representatives joins Representative Jim Gooch, Jr. in expressing its deepest sympathy to all who share in the loss on the passing of this outstanding gentleman, beloved husband of Alda Hartford Sellers, devoted father of Shannon Green and Lisa Watson, cherished grandfather of Nicole Watson and Kyle Green, and brother of Jane Cole and Freda Higgins. This Navy veteran of World War II was a retired school teacher and administrator who taught for thirty-six years in the Webster County and Henderson County School Systems, and was a member of Masonic Lodge 911, the Retired Teachers Association, KASA, VFW Post 5484 and the Dixon United Methodist Church. We remember him on this day for his remarkable deeds and offer our sincere condolences to his family and friends. **Legislative Citation No. 53** was adopted without objection.

Representative Hoover moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Hoover moved the adoption of the following **Legislative Citation No. 58**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Ben V. Sharp on the occasion of his 92nd Birthday. In recognition of this memorable event, the entire membership is pleased to join Representative Jeffrey Hoover in commending Ben Sharp, a lifelong resident of Russell County who left Jamestown at an early age to serve as Secretary to Congressman John Marshall Robsion from Barbourville, married Sina Mae Black of Russell Springs, and was the devoted father of their four children. He returned to Russell County and became the office manager for Albright Construction Company, the builders of Wolf Creek Dam. Upon the completion of that project, Ben Sharp purchased The Russell County News, where he served as owner, editor and publisher until his retirement. This energetic and enthusiastic Kentucky gentleman continues to make generous contributions to his community as secretary of the Jamestown First United Methodist Church and as an active member of the Jamestown Senior Citizens Center. We extend our best wishes to this outstanding Kentucky citizen as he celebrates his 92nd birthday on the first day of June. **Legislative Citation No. 58** was adopted without objection.

Representative Marzian moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 36, by Representatives Marzian, L. Clark, Wayne, Bratcher, Jordan, Jenkins, Lile, Johns, Horlander, P. Clark, Burch, Butler, DeWeese: A RESOLUTION encouraging the Interim Joint Committee on State Government to study the management of the 1997 flood relief mitigation funds.

Representative Marzian moved the adoption of the following **HR 36**:

HR 36, A RESOLUTION encouraging the Interim Joint Committee on State Government to study the management of the 1997 flood relief mitigation funds.

WHEREAS, the March flood of 1997 was one of the most devastating and far reaching floods in the history of the Commonwealth; and

WHEREAS, the Federal Emergency Management Assistance and the Commonwealth of Kentucky have appropriated funds to be used to mitigate future flood hazards by purchasing properties and removing residents from floodways and flood plains; and

WHEREAS, the state's hazard mitigation office has awarded approximately $15 million worth of federal mitigation funds;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body encourages the Interim Joint Committee on State Government to study the management of the 1997 flood relief mitigation funds, and consider whether directing promulgation of administrative regulations would create a fair process for all citizens of the Commonwealth.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable David Armstrong, Jefferson County Judge/Executive, 527 west Jefferson Street, Suite 400, Jefferson County Courthouse, Louisville, Kentucky 40202.

There being no objection **HR 36** was adopted.

Representative Geveden moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Geveden moved the adoption of the following **HR 21**:

HR 21, A RESOLUTION adjourning the House of Representatives in honor of Steven Curtis Chapman.

WHEREAS, Steven Curtis Chapman, a native of the community of Heath, in McCracken County, Kentucky, was once again achieved gospel's most-honored musician of the year on April 24, 1997, at the 28th Annual Dove Awards in Nashville, Tennessee; and

WHEREAS, this pop contemporary sounding musician achieved top male vocalist, songwriter, and pop-contemporary album of the year for his "Signs of Life" album; Steven was nominated in 7 categories and received Doves for Artist of the Year; Male Vocalist of the Year; Songwriter of the Year, his eighth time in nine years; and Contemporary Album of the Year for "Signs of Life"; and

WHEREAS, Steven Curtis Chapman calls his music everything from gospel music to pop gospel (which is the Grammy label for it) and contemporary Christian is one of the other catch phrases for it, but it is basically a combination of acoustic rock, blues, folk, pop, all of that put together with lyrics that are real life lyrics; and

WHEREAS, Steven Curtis Chapman is a worldwide ambassador for Kentucky; and

WHEREAS, for Steven Curtis Chapman, all his own songs are born out of his own faith in God and his Christian faith, not preaching songs or sermons, but they are just songs about real life, from a person who is proud to have lived eighteen years in Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body proudly recognizes and hails Steven Curtis Chapman for his outstanding contributions in the musical field.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Steven Curtis Chapman upon the occasion of winning Artist of the Year at the 28th Annual Dove Awards.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Charles Geveden for presentation to Steven Curtis Chapman.

There being no objection **HR 21** was adopted.

Representative Baugh moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 54**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Margaret Patricia "Pat" Gregory. The House of Representatives joins Representative Sheldon Baugh in expressing its deepest sympathy to all who share in the great loss on the passing of this devoted daughter of Katherine Summers Wilson and the late Robert Roy Wilson, and loving wife of Roger Gregory. This outstanding Kentuckian, a graduate of Auburn High School, attended Western Kentucky University and was an art teacher for many years in the Logan County School System. She also was a member of the Auburn Cumberland Presbyterian Church. The memory of Patricia Gregory will continue to be an inspiration to all whose lives were illuminated by her earthly sojourn and will surely serve as a beacon for others to follow. **Legislative Citation No. 54** was adopted without objection.

Introduction of Resolutions

HR 34, by Representative Palumbo: A RESOLUTION commemorating the 10th anniversary of the School for the Creative and Performing Arts in Fayette County.

HR 35, by Representative Riggs: A RESOLUTION adjourning the House of Representatives in memory of Opal A. Craft.

Orders of the Day

HB 1 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved the adoption of the following Free Conference Committee Report on **HB 1**. Agreed.

The Free Conference Committee on **HB 1** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the GA Copy of **HB 1** with Senate Committee Amendments Nos. 1, 7, 8, 15, 16, 18, 22, 27, 28, 30, and 31; Senate Floor Amendment No. 68; and the following changes:

Adopt the provisions of Senate Committee Amendment 20 with changes to provide that any regular full-time employee of a postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of 6 credit hours per term at any state-supported postsecondary institution.

Adopt the provisions of Senate Committee Amendment 32 to require the Council on Postsecondary Education ensure that board and faculty of postsecondary education institutions provide instruction without discriminating against students with contrary political views, but moving the language to KRS 164.020, duties of the Council on Postsecondary Education.

Adopt the provisions of Senate Committee Amendment 33 with changes to provide that board members on all postsecondary boards serving on the effective date of this Act may be reappointed at the end of their existing terms and may serve 2 additional full consecutive terms.

Adopt the provisions of Senate Committee Amendment 67 with changes to clarify that an external panel to review faculty research projects shall be appointed according to guidelines and procedures approved by the council in consultation with the University of Kentucky and the University of Louisville.

Adopt the following provisions:

On page 2, line 7, after "***universities***" by inserting the following: "***, with at least one (1) nationally-recognized program of distinction or one (1) nationally-recognized applied research program,***"; and

On page 2, line 11, after "***that***" by deleting "***ensures***" and by inserting "***assures***"; and

On page 2, line 12, at the beginning of the line by deleting "***reasonable***"; and

On page 3, after line 17 and before line 18 by inserting the following:

"***(3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in subsection (2) of Section 2 of this Act;***"; and

On page 3, line 18, by changing "***(3)***" to "***(4)***"; and

On page 3, line 22, by changing "***(4)***" to "***(5)***"; and

On page 3, line 24, by changing "***(5)***" to "***(6)***"; and

On page 3, line 26, by changing "***(6)***" to "***(7)***" and by changing "***72***" to "***73***"; and

On page 4, line 1, by changing "***(7)***" to "***(8)***"; and

On page 4, after line 3, by inserting the following:

"***(9) "Goals" means the six (6) goals specified in subsection (2) of Section 2 of this Act;***"; and

On page 4, line 4, by changing "***(8)***" to "***(10)***"; and

On page 4, line 7, by changing "***(9)***" to "***(11)***"; and

On page 4, line 18, by changing "***(10)***" to "***(12)***"; and

On page 4, line 22, by changing "***(11)***" to "***(13)***"; and

On page 4, line 25, by changing "***(12)***" to "***(14)***"; and

On page 5, line 1, by changing "***(13)***" to "***(15)***"; and

On page 5, line 6, by changing "***(14)***" to "***(16)***"; and

On page 5, line 8, by changing "***(15)***" to "***(17)***"; and

On page 5, line 12, by changing "***(16)***" to "***(18)***"; and

On page 5, line 15, by changing "***(17)***" to "***(19)***"; and

On page 5, line 17, by changing "***(18)***" to "***(20)***"; and

On page 5, line 17, after "***educational***" by deleting "***unit***" and inserting in lieu thereof "***institution***"; and

On page 6, line 24, after "***review***" by deleting "***the***" and inserting "***its***" in lieu therof: and

On page 6, line 25, after "***agenda***" by inserting the following: "***under Section 6 of this Act***"; and

On page 6, line 26, after "***in***" by inserting "***subsection (2) of***"; and

On page 7, at the beginning of line 14, by deleting "***statute***" and inserting the word "***law***"; and

On page 7, line 17, after "***long-term***" by deleting "***and biennial***"; and line 17 by deleting "***agendas***" and inserting the word "***agenda***" in lieu thereof; and

On page 7, at the beginning of line 18 by deleting the word "***plans***" and inserting the word "***requests***" in lieu thereof; and after "***related***" by deleting on lines 18 and 19 the words "***strategic agendas and***"; and

On page 7, line 19 by deleting "***plans***" and inserting "***requests***" in lieu thereof; and

On page 7, by deleting lines 20 through 22 in their entirety and inserting in lieu thereof the following:

"***(b) Review the council's proposed objectives and benchmarks for the next fiscal biennium for furthering the Commonwealth's achievement of the goals set out in subsection (2) of Section 2 of this Act;***"; and

On page 8, line 14, by deleting "***Except for the first president appointed under subsection (2) of this section, the***" and inserting "***The***" in lieu thereof; and

On page 8, line 16, after "***council.***" by inserting "***Except for the first president appointed under subsection (2) of this section,***" and by removing the capitalization from "***The***"; and

On page 8, line 18, after "***propose***" by inserting the words "***at least***"; and

On page 9, by deleting at the end of the sentence on line 14 "***by law***" and inserting "***in subsection (2) of Section 2 of this Act***" in lieu thereof; and

On page 9, by deleting lines 23 through 25 in their entirety and by inserting in lieu thereof the following: "***All personnel positions of the Council on Higher Education, as of the effective date of this Act, with the exception of the position of executive director, shall be transferred to the Council on Postsecondary Education. All personnel shall be transferred at the same salary and benefit levels.***"; and

On page 10, line 12, by changing "***73***" to "***74***"; and

On page 10, by deleting lines 19 and 20 in their entirety and inserting in lieu thereof the following:

"***identifies specific short-term objectives in furtherance of the long-term goals established in subsection (2) of Section 2 of this Act.***"; and

On page 11, by deleting lines 7 through 9 in their entirety and inserting in lieu thereof the following:

"***(b) The council shall develop an implementation plan, which may be periodically revised, to achieve the strategic agenda. The strategic agenda shall serve as a guide for institutional plans and missions.***"; and

On page 11, line 18 after "***implementation***" by deleting the word "***of***" and by inserting "***plan for***" in lieu thereof; and on line 20, by deleting "***the business community***" and inserting "***Kentucky's employers***" in lieu thereof; and

On page 11, by deleting lines 21 through 23 in their entirety and inserting in lieu thereof the following:

"***(5) The council shall develop benchmarks using criteria that shall***"; and

On page 12, line 4, by changing "***83***" to "***84***"; and

On page 12, by deleting lines 5 and 6 in their entirety and inserting in lieu thereof the following:

"***(6) The council shall review the goals established by subsection (2) of Section 2 of this Act at least every four (4) years and shall review its implementation plan at least every two (2) years.***"; and

On page 12, line 11, after "***agenda***" by inserting "***and implementation plan***"; and

On page 12, line 12, after "***distribute***" by replacing "***a copy***" with "***copies***"; and

On page 12, line 19 after "***as stated in***" by inserting "***subsection (2) of***"; and

On page 14, lines 14 and 15, after "***accordance with***" by deleting "***the goals of***"; and

On page 15, line 1 before "***Section 2***" by inserting "***subsection (2) of***"; and

On page 15, line 6, after "***section.***", by inserting the following: "***The evaluation of all applications for support of specific faculty research projects, if such projects are included in the university's plan for use of research trust funds, shall***

be subject to review and ranking by an external panel of experts appointed according to guidelines and procedures approved by the council in consultation with the University of Kentucky and the University of Louisville."

On page 16, by deleting lines 1 through 3 and inserting in lieu thereof the following:

"***at least one (1) nationally-recognized program of distinction or at least one (1) nationally-recognized applied research program consistent with the goals established in subsection (2) of Section 2 of this Act.***"; and

On page 16, by deleting lines 14 through 17 in their entirety and inserting in lieu thereof the following:

"***(1) (a) The technology initiative trust fund created by Section 7 of this Act is intended to support investments in electronic technology for postsecondary education throughout the Commonwealth to improve student learning.***"; and

On page 17, by deleting lines 10 and 11 in their entirety and inserting in lieu thereof the following:

"***(1) The physical facilities trust fund created by Section 7 of this Act is intended to provide sufficient financial assistance for unexpected contingencies for the construction, improvement, renovation, or***"; and

On page 17, line 14, after "***section.***" by inserting "***The physical facilities trust fund shall not replace the existing capital construction provisions and appropriation provisions of state law.***"; and

On page 18, line 10, after "***including***" by inserting "***regionally-accredited or nationally-accredited***" and hyphenating "***regionally accredited***" on line 12; and

On page 19, by deleting line 2 and inserting in lieu thereof "***postsecondary regionally-accredited or nationally-accredited private or public institutions.***"; and

On page 19, by deleting lines 3 through 7 in their entirety and inserting in lieu thereof the following:

"***(b) A minimum of twenty-five percent (25%) of the student financial aid and advancement trust fund appropriation shall be allotted for the purpose of assisting individuals whose available income, determined in accordance with part F of Title IV of the Higher Education Act of 1965 as amended, is at or below one hundred percent (100%) of the federal income poverty guidelines. From the foregoing allotment, administrators of programs funded under this section may exercise discretion in accordance with 20 U.S.C. sec. 1087tt in awarding student financial assistance benefits on a case-by-case basis to individuals with disabilities, as defined by Title II of the Americans With Disabilities Act , 42 U.S.C. sec. 12131 et seq., whose available income is above the federal income poverty guidelines, whether or not the student qualifies for vocational rehabilitation services. Any funds remaining after all eligible students have been served under this paragraph may be used for other purposes as provided in this section.***"; and

On page 20, line 4, after "***systems***" by inserting "***to be used by the Commonwealth Virtual University***" ; and

On page 20, line 7, after "***delivered by***" by deleting "***distance learning***"; and by inserting in lieu thereof "***the Commonwealth Virtual University; however, this does not preclude the University of Kentucky, the University of Louisville, or independent colleges from offering baccalaureate and master's degree programs or other course offerings, and community colleges and technical institutions from offering associate and technical degree programs or other courses through the Commonwealth Virtual University***"; and

On page 21, by deleting lines 5 through 12 in their entirety and inserting in lieu thereof the following:

"***(2) The board of regents of the Kentucky Community and Technical College System shall appoint the chancellors upon recommendation of the president to head the Community College System and the Technical Institutions' Branch. However, the chancellor of the University of Kentucky Community College System as of the effective date of this Act shall serve as the first chancellor of the Community College System.***"; and

On page 21, by deleting lines 13 through 18 in their entirety and inserting in lieu thereof the following:

"***(3) The chancellors shall be appointed from candidates selected by a search committee. When a new chancellor is needed to head the Community College System, the president of the system shall recommend to the board of regents a chancellor from a list of three (3) candidates nominated by a search committee. The search committee shall be composed of equal representatives appointed by the University of Kentucky board of trustees and the Kentucky Community and Technical College System board of regents.***"; and

On page 21, by deleting all language on lines 21 through 27; and

On page 22, by deleting all new language on lines 1 through 13; and on line 14, by changing "***(6)***" to "***(5)***"; and

On page 24, line 9, by changing "***67***" to "***68***"; and

On page 24, line 10, by changing "***36***" to "***37***"; and

On page 25, line 9, after "***Effective***" by deleting "***July 1, 1998,***" and inserting in lieu thereof "***upon the affirmative completion of the regional accrediting agency's substantive change process but not later than July 1, 1998,***"; and

On page 25, line 14, after "*grounds,*" by inserting "*assets, liabilities, revenues,*"; and

On page 26, after "*System.*" on line 1 by deleting language through the end of line 10 and inserting in lieu thereof the following:

"*(a) The board may divide the assets and funds among the specific organizations and institutions within the community college system to meet the mission of the system.*

(b) Funds held in escrow or invested solely for the purpose of a community college and bequests specifically earmarked for a community college may, at the discretion of that local community college, be managed by the University of Kentucky or that local community college.

(c) Private funds, foundation funds, and funds raised by a not-for-profit or nonprofit organization for the use and benefit of a specific program or community college shall be used exclusively for that program or that community college."; and

On page 26, lines 11 and 12, by deleting "*June 30, 1998,*" and inserting in lieu thereof "*the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System*";and

On page 26, line 13, by deleting "*June 30, 1998,*" and inserting in lieu thereof "*the effective date of the transfer*"; and

On page 26, lines 16 and 17, by deleting "*June 30, 1998,*" and inserting in lieu thereof "*the effective date of the transfer* "; and

On page 26, line 23, by deleting "*June 30, 1998*" and inserting in lieu thereof "*the effective date of the transfer*"; and

On page 26, line 24, by deleting "*June 30, 1998,*" and inserting in lieu thereof "*the effective date of the transfer*"; and

On page 26, line 27, by deleting "*June 30, 1998,*" and inserting in lieu thereof "*the effective date of the transfer described in subsections (1) and (3) of this section*"; and

On page 27, line 13, after "*(7)*" by deleting all new language through line 17 and deleting "*(8)*" on line 18; and

On page 27, line 20, by deleting "*July 1, 1998*" and inserting in lieu thereof "*the effective date of the transfer described in subsections (1) and (3) of this section*"; and

On page 27, between line 23 and 24, by inserting the following:

"*(8) If any conflict arises between the University of Kentucky board of trustees and the Kentucky Community and Technical College board of regents relating to the delegation of authority from the university to the board of regents or the management of the University of Kentucky Community College System within the Kentucky Community and Technical College System, the Council on Postsecondary Education shall resolve the conflict.*"; and

On page 30, between lines 23 and 24, by inserting the following:

"SECTION 27. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Council on Postsecondary Education may identify academic programs offered at institutions to which the criteria for a standardized degree program shall be applied.

(1) If the council determines that a particular degree program offered by any state postsecondary institution shall be a standardized degree program, then the council shall direct each institution offering the degree program to collaborate under the direction of the council and establish the courses and the course content required for that degree program.

(2) If the various institutions cannot agree upon the courses required or the content of the courses, then the council shall make these determinations.

(3) All courses approved for a standardized degree shall be transferable among all institutions granting that degree."
and renumbering subsequent sections accordingly; and

On page 51, line 7, by deleting "*1998*" and replacing it with "*1997*"; and

On page 109, lines 20 through 24 by deleting all new language and by placing an opening bracket after "(b)" and a closing bracket after "Commonwealth", and by striking through all intervening and existing text; and by inserting after "(b)" the following:

"*The Governor shall make the appointments so as to reflect, inasmuch as possible, equal representation of the two (2) sexes and no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the committee, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex*"; and

On page 111, line 6, by changing "***96***" to "***97***"; and

On page 111, line 13, after "vacancies." by inserting the following: "***The committee shall provide to the Governor, inasmuch as possible, an equal number of male and female nominees. If the Governor needs nominees of a particular sex in order to make an appointment, the committee shall only provide nominees of that sex.***"; and

On page 113, line 11, by changing "***70***" to "***71***"; and

On page 113, by deleting the new language on lines 17 through 27, and on page 114 by deleting lines 1 and 2 and inserting in lieu thereof the following:

"***By no later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in Section 71 of this Act. On making appointments to the council, the Governor shall assure broad geographical and political representation; assure equal representation of the two (2) sexes, inasmuch as possible; assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration; and assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the council, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than three (3) voting members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.***"; and

On page 116, by deleting all of line 12 and inserting in lieu thereof:

"***(12) New appointees to the council shall not serve more than two (2) consecutive terms. Appointees after the effective date of this Act who previously served on the Council of Higher Education may serve two (2) additional full consecutive terms.***"; and

On page 116, line 25, by changing "***83***" to "***84***"; and

On page 120, lines 3 to 9, by deleting all new language on lines 3 through 9 in their entirety; and inserting in their place the following:

"***(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998.***"

On page 121, line 13, after "***institution's***" by deleting "***approved***"; and

On page 121, line 14, after "***agenda***" by deleting "***implementation plan***"; and

On page 121, by deleting all of line 15 and 16 and inserting in lieu thereof the following:

"***(b) Alignment with the priorities in the implementation plan for achieving the strategic agenda;***"; and

On page 121, line 22, after "***(16)***" by deleting all language through line 5 on page 122 and inserting in lieu thereof the following: "***Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;***"; and

On page 122, line 16, after "***coordination***" by deleting "***and***" and inserting a comma "***,***"; and inserting after "***transferability***" the words "***, and connectivity***"; and on line 18, by inserting before "***plan***" the word "***technology***"; and

On page 122, lines 18 and 19, by deleting "***for the coordination and transferability of technology***"; and

On page 122, line 26, by changing "***65***" to "***66***"; and

On page 124, line 6, after "***accounting***" by inserting "***and financial reporting***"; and

On page 124, line 27, after "***system***" by inserting the following:

"***. Any regular full-time employee of a postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term***"

On page 131, line 25, before "degree" by bracketing and striking through "masters-degree" and inserting before "masters-degree" the words "***master's-degree***"; and

On page 132, line 17, after "(3)", by bracketing and striking through all existing language through line 19 in its entirety and inserting the following after "(3)" on line 17:

"***The University of Kentucky shall provide comprehensive community college programs at the Lexington Community College. The Lexington Community College, as one of the fourteen (14) community colleges that composed the University of Kentucky Community Colleges on the effective date of this Act, shall be provided an equitable share of the funds appropriated to improve the funding levels of the community colleges for the 1997-98 fiscal year. Subsequent biennial budget requests for the Lexington Community College shall be included in the University of Kentucky's budget requests, as a separate line item, and shall not be considered a part of the Kentucky Community and Technical College System requests.***"; and

On page 132, line 26, by changing "***73***" to "***74***"; and

On page 135, by deleting all of line 17 and inserting in lieu thereof the following:

"***(7) New appointees of the board shall not serve more than two (2) consecutive terms. Board members serving as of the effective date of this Act may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.***"; and

On page 135, line 24, by changing "***139***" to "***140***"; and

On page 139, line 24 by bracketing and striking through "masters degree" and inserting before "masters-degree" the words "***master's-degree***"; and

On page 139, line 25, after "beyond the" by bracketing and striking though "masters" and inserting in lieu thereof the word "***master's***"; and

On page 140, line 4, by changing "***110***" to "***111***"; and

On page 141, line 3, by changing "***70***" to "***71***"; and

On page 141, lines 7 and 8, by deleting the last sentence in the subsection in its entirety, and inserting in lieu thereof the following:

"***In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.***"; and

On page 141, by deleting lines 19 and 20 and inserting in lieu thereof the following:

"***New appointees of a board of regents shall not serve for more than two (2) consecutive terms. Board members serving as of the effective date of this Act may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.***"; and

On page 144, line 25, by changing "***73***" to "***74***"; and

On page 145, between lines 4 and 5, by inserting the following:

"***(a) By not later than thirty (30) days after the effective date of this Act, the Governor's Postsecondary Nominating Committee shall submit nominations to the Governor as set forth in subsection (1) of this section for initial appointments to the board.***

(b) By June 10, 1997, the board of trustees for the University of Kentucky shall submit nominations to the Governor, as set forth in subsection (1) of this section, for initial appointments to the board. For any subsequent appointment to be made from nominations from the board of trustees, the board of trustees shall forward nominations thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. If the Governor needs nominees of a particular sex in order to make an appointment, the board of trustees shall only provide nominees of that sex."; and

On page 148, line 11, after "***adopted***" by deleting "***long-term and biennial***"; and after "***agenda***" on line 11, by inserting "***and biennial budget***"; and

On page 150, line 25, by changing "***139***" to "***140***"; and

On page 150, line 27, by changing "***139***" to "***140***"; and

On page 151, line 9, by changing "***139***" to "***140***"; and

On page 153, line 11, after the first use of the word "***to***" by deleting "***business and industry***" and by inserting in lieu thereof "***Kentucky's employers***"; and

On page 153, line 16, after "***students***" by deleting "***, business, and industry***" and in inserting in lieu thereof "***and employers***"; and

On page 154, lines 15 and 16, by deleting "***July 1, 1998***" and inserting in lieu thereof "***the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community***

and Technical College System"; and

On page 155, line 13, after "***(4)***" by deleting all new language through line 19 and inserting in lieu thereof the following: "***Degrees shall be conferred upon community college students and their diplomas awarded by the University of Kentucky board of trustees. If the regional accrediting agency for the community colleges in the process of completing its substantive change process review determines that the organizational structure of the Kentucky Community and Technical College System and its board of regents does not meet the requirements for accrediting individual community colleges and for granting of degrees by the University of Kentucky board of trustees, then the Kentucky Community and Technical College board of regents and the board of trustees shall initiate corrective actions within thirty (30) days of notification from the accrediting agency or within the time table specified by the accrediting agency to alleviate the problem.***"; and

On page 158, line 15, at the end of the line, by inserting "***The names of community colleges on the effective date of this Act shall be retained.***";

On page 159, by deleting lines 9 through 12 in their entirety and inserting in lieu thereof the following:

"***(a) Recommend one (1) candidate for the community college president from three (3) candidates provided by the president of the Kentucky Community and Technical College System. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;***"; and

On page 159, line 14, by deleting "***chancellor***" and inserting in lieu thereof "***president***"; and

On page 159, by deleting lines 21 and 22 and inserting in lieu thereof the following:

"***(e) Approve and implement a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and***"; and

On page 160, line 3, by changing "***100***" to "***101***"; and

On page 160, line 5, after "Governor" and before the period by inserting "***for a term set by law pursuant to Section 23 of the Constitution of Kentucky***"; and

On page 170, line 10, at the end of the line by bracketing and striking through "masters" and inserting before "masters" the word "***master's***"; and

On page 170, line 11 by bracketing and striking through "masters" and inserting before "masters" the word "***master's***"; and

On page 171, line 7, by changing "***73***" to "***74***"; and

On page 171, by deleting all of line 12 and inserting in lieu thereof the following:

"***(c) New appointees to the board shall not serve more than two (2) consecutive terms. Board members serving as of the effective date of this Act may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.***"; and

On page 176, line 24, by bracketing and striking through "masters" and by inserting before "masters" the word "***master's***"; and

On page 181, line 23, by changing "***110***" to "***111***"; and

On page 189, line 14, after "***approval.***" by deleting all new language through line 19; and

On page 198, between lines 12 and 13 by inserting two new sections as follows:

"Section 151. The term of any member of a board of trustees or board of regents for a state university that is due to expire by July 1, 1997, shall be extended until July 31, 1997.

Section 152. The terms of the existing members of the Council on Higher Education shall terminate as of the effective date of this Act, but they shall continue to serve until the membership of the Council on Postsecondary Education created by Section 73 of this Act is appointed by the Governor. All appropriations, records, resources, and other materials of the Council on Higher Education are transferred to its successor agency, the Council on Postsecondary Education as of the effective date of this Act."; and by renumbering subsequent sections accordingly; and

On page 198, line 13, by deleting "an orderly transfer be made to establish"; and

On page 198, line 14, after "System" by inserting the following: "be established in an orderly process with the delegation of management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System board of regents taking place as of the date of the affirmative completion of the regional accrediting agency's substantive change process but not later than July 1, 1998, and that the Kentucky Tech institutions be transferred"; and

On page 198, line 20 by deleting "enactment" and inserting in lieu thereof "effective date.".

Signed: Senators Larry Saunders and David K. Karem; and Representatives Jody Richards, Gregory Stumbo, Jim Zimmerman, Richard Murgatroyd, Jim Callahan, Joe Barrows, Larry Clark, and Harry Moberly, Jr.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Callahan moved that **HB 1**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 73, Nays 25. (See May 30, 1997 roll call on **HB 1** - Appendix)

HB 1, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 1**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Palumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Palumbo moved the adoption of the following **HR 34**:

HR 34, A RESOLUTION commemorating the 10th anniversary of the School for the Creative and Performing Arts in Fayette County.

WHEREAS, ten years ago the School for the Creative and Performing Arts was established to provide students who are either especially artistically talented, or interested in the arts, or both, the opportunity to further develop and enhance their abilities in a fine arts setting; and

WHEREAS, in a creative atmosphere with well-defined expectations, an eagerness for learning experiences in the arts is nurtured and the students' development of self-discipline and self-esteem is encouraged; and

WHEREAS, by offering a solid academic foundation and fostering an awareness of, and respect for, cultural diversity, the School for the Creative and Performing Arts provides students the opportunity to develop to their fullest potential and become productive contributors to society; and

WHEREAS, the School for the Creative and Performing Arts offers study in the areas of Drama, Art, Creative Writing, Piano, Vocal Music, String Music, Band, Ballet, Contemporary Dance, and Jazz Music; and

WHEREAS, the School for the Creative and Performing Arts is one of two public performing arts schools for young people in Kentucky, and its students have won regional, state, and national recognition in a variety of competitions and programs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby recognize the School for Creative and Performing Arts on its tenth anniversary for its pioneering efforts and commends its example to the Commonwealth.

Section 2. The House of Representatives applauds the leadership and dedication of Dr. Martha McClure and Mr. Mike McKenzie, the principals at Bluegrass School and Lafayette High School, where grades 4 through 8 and grades 9 through 12 of the School for the Creative and Performing Arts are located.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Dr. Martha McClure, SCAPA at Bluegrass, 475 Price Road, Lexington, Kentucky 40587-0866, and to Mr. Mike McKenzie, 400 Reed Lane, Lexington, Kentucky 40503.

There being no objection **HR 34** was adopted.

Recess

Representative Stumbo moved to recess until 2:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 4**. Message received in regard to **HB 5**: The Senate has passed **HB 5** by way of Senate Committee Substitute and Senate Floor Amendment No. 4. The Senate respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Orders of the Day (Cont.)

HB 5, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 5** is as follows:

HB 5, AN ACT relating to finance and administration, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 11 of this Act is to create an independent commission that will take a comprehensive view of the Commonwealth's finances and develop policies and strategies that will seek to minimize the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act:

(1) "Authorized project" means:

(a) Any project approved by the General Assembly and included in an enacted budget; or

(b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;

(2) "Cabinet" means the Finance and Administration Cabinet;

(3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;

(4) "Commission" means the Kentucky Asset/Liability Commission;

(5) "Estimated revenues" means the detailed revenue estimate or revised revenue estimate as certified by the secretary of the finance and administration cabinet pursuant to KRS 48.115 and 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;

(6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;

(7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a state agency, relating to the funding of projects or items associated with projects as described in subsection (3) of Section 9 of this Act, or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;

(8) "Fixed-rate Obligations" means obligations on which the interest rate remains constant to maturity;

(9) "Funding notes" means notes issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;

(10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;

(11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;

(12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;

(13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(14) "Project notes" means notes issued under the provisions of Sections 1 to 11 of this Act by the commission with a final maturity of not more than ten (10) years for the purpose of funding authorized projects, which may include bond anticipation notes;

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;

(16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of Sections 1 to 11 of this

Act by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and

(17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer; the secretary of the Revenue Cabinet; and the state budget director, or their alternates as authorized in Section 7 of this Act. The vice chair shall be elected from among the membership.

(2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.

(3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.

(4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with Sections 1 to 11 of this Act, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with Sections 1 to 11 of this Act.

(5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.

(6) Notes issued pursuant to Sections 1 to 11 of this Act may be sold on a competitive or negotiated sale basis.

SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The Office of Financial Management and Economic Analysis shall serve as staff to the commission. The executive director of the Office of Financial Management and Economic Analysis shall serve as secretary to the commission. The commission shall coordinate with the Office of the Controller to ensure that the necessary financial data is made available.

SECTION 5. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of Sections 1 to 11 of this Act;

(2) Promulgate administrative regulations relating to Sections 1 to 11 of this Act;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under Sections 1 to 11 of this Act to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management and Economic Analysis as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging a portfolio of interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements relating to funding notes, project notes, and tax and revenue anticipation notes into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to tax and revenue anticipation notes, project notes, and funding notes; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

(a) A description of the Commonwealth's investment and debt structure;

(b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth, and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

(c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year;

(d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Tax and revenue anticipation notes, project notes, and funding notes may be variable-rate or fixed-rate obligations issued in the form of commercial paper, fixed-rate obligations, variable-rate demand obligations, multimodal obligations, commercial bank loans, or other commercially-reasonable forms of financing.

SECTION 7. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) Each member of the commission may designate, by an instrument in writing over the member's signature and filed with the commission as a public record, an alternate with full authority to:

(a) Attend in the absence of the appointing member for any reason, any properly-convened meeting of the commission; and

(b) Participate in the consideration of, and voting upon, business and transactions of the commission.

(2) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business;

(b) Be shown on the face of the appointing instrument to be on a continuing basis, but in no case for a period of more than four (4) years, whenever the appointing member is unable to attend;

(c) Be revoked by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission.

(3) Any party transacting business with the commission or materially affected by the commission shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of designation, and if of a continuing nature, whether the designation has been revoked, and when. The joint certificate shall be made and delivered to the party within a reasonable time after written request is made with acceptable identification of the business or transaction referred, and of the requesting party's interest.

(4) Each alternate shall be a person on the staff of the appointing member or shall be in the employ of the appointing

member's agency or department of the government of the Commonwealth.

SECTION 8. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) As the receipt of revenues and expenditure demands of a particular fund or account of the Commonwealth render it necessary, the commission may issue tax and revenue anticipation notes to discharge expenditure demands in anticipation of estimated revenues that are required to be deposited in that fund or account during the fiscal year in which the tax and revenue anticipation notes are issued. Tax and revenue anticipation notes may be sold and issued in the manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant. Tax and revenue anticipation notes may be issued in an amount not to exceed seventy-five percent (75%) of the estimated revenues anticipated to be deposited during the fiscal year in the fund or account for which the tax and revenue anticipation notes are being issued. Tax and revenue anticipation notes, together with interest thereon, shall be repaid from revenues required to be deposited in the fund for which the tax and revenue anticipation notes were issued. Revenues to be deposited in that fund or account shall be pledged for the repayment of tax and revenue anticipation notes so long as any tax and revenue anticipation notes remain outstanding. Any lien on and security interest in taxes or revenues that may be created as provided in this section shall be prior and superior to any other lien or security interest created by law or otherwise.

(2) Tax and revenue anticipation notes may be refunded or reissued, in whole or in part.

(3) Notwithstanding any statutory provisions to the contrary, including without limitation KRS 56.870, no approvals beyond those specifically required in this section shall be required for the issuance, sale, and delivery of the tax and revenue anticipation notes.

(4) The commission shall report the issuance of tax and revenue anticipation notes to the Capital Projects and Bond Oversight Committee within thirty (30) days of issuance.

SECTION 9. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The commission may issue and sell project notes for authorized projects upon request by the cabinet. Project notes may be sold and issued in a manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant.

(2) Appropriations requests for payments under the financing agreements on project notes shall be made by the state agency requesting an authorized project unless the payments are to be payable from funds not subject to appropriation. Project notes, together with interest thereon, shall be repaid from payments received by the commission from the cabinet under a financing agreement. The cabinet shall enter into financing agreements with the commission for the issuance of project notes. State agencies requesting funding for an authorized project shall enter into an agreement with the cabinet for the issuance of project notes by the commission for that state agency. Agreements authorized by this section shall be either financing agreements, or alternative agreements which specify that any payments shall be made from funds that are not subject to appropriation by the General Assembly.

(3) Project notes may be issued for the following purposes:

(a) To pay any or all the costs of an authorized project for any state agency; and

(b) To refund outstanding project notes or other obligations of any state agency.

(4) Project notes shall have a maximum maturity not to exceed one hundred twenty percent (120%) of the expected useful economic life of the project as estimated by the commission, and if more than one (1) project is being financed by the project notes, then the weighted average of the expected useful economic lives shall be used.

(5) The issuance of project notes shall be subject to KRS 56.870, to approval by the State Property and Buildings Commission, and to review by the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810.

(6) Project notes may be refunded, in whole or in part, from the proceeds of bonds or other obligations issued by any state agency authorized to issue bonds or other obligations.

(7) Project notes shall not constitute a debt of the Commonwealth or any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or any political subdivision.

SECTION 10. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The commission may issue and sell funding notes, for the purpose of funding judgments against the Commonwealth or any state agency. Funding notes may be sold and issued in a manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant.

(2) Appropriations requests for payment of principal and interest on funding notes shall be made by the state agency against which a judgment has been rendered. Funding notes, together with interest thereon, shall be repaid from payments received by the commission from the cabinet under a financing agreement.

(3) Funding notes may be issued for the following purposes:

(a) To pay for judgments, which shall include legal settlements, court-ordered actions against the

Commonwealth or any state agency, and any part of any expense or cost incidental to legal settlements or court-ordered actions against the Commonwealth or any state agency; and

(b) To refund outstanding issues of funding notes.

(4) The issuance of funding notes shall be subject to KRS 56.870, to approval by the State Property and Buildings Commission, and to review by the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810.

(5) The cabinet, in providing for the expenditure of funds for any of the purposes mentioned in this section, may provide by a financing agreement with the state agency so affected, for the funding of the Commonwealth's or that state agency's judgment, and the state agency so affected is authorized to enter into a financing agreement with the cabinet for that purpose.

(6) Funding notes shall not constitute a debt of the Commonwealth or any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or any political subdivision, but the notes shall be payable solely from payments received under the financing agreement relating to the funding notes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Interest on all funding notes, project notes, and tax and revenue anticipation notes issued by the commission shall be exempt from income taxation and the funding notes, project notes, and tax and revenue anticipation notes shall be exempt from ad valorem taxation by the Commonwealth and its political subdivisions. All funding notes, project notes, and tax and revenue anticipation notes issued pursuant to Sections 1 to 11 of this Act shall be negotiable instruments.

Section 12. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

(1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;

(2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;

(3) "Bond issuing agency" means the State Property and Buildings Commission, *Kentucky Asset/Liability Commission,* Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, and Eastern Kentucky University;

(4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;

(5) "Executive director" means the executive director of the Office of Financial Management and Economic Analysis;

(6) "Office" means the Office of Financial Management and Economic Analysis established by KRS 42.400;

(7) "Underwriter" means:

(a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or

(b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;

(8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 13. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation; and

7. Kentucky Local Correctional Facilities Construction Authority;

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuance over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University; and
9. Eastern Kentucky University.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuance of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) ***Pursuant to KRS 45A.853 and 45A.857, one (1) or more financial advisors, managing underwriters, and remarketing agents and one (1) bond counsel shall be chosen for the Kentucky Asset/Liability Commission. The commission shall enter into agreements with the individuals or entities for a maximum contract period of twenty-four (24) months. At the conclusion of the contract period, the executive director may continue the employment of the financial advisor, underwriter, remarketing agent, or bond counsel for another contract period, not to exceed twenty-four (24) months. If the employment is not continued or terminated, the selection of a financial advisor, underwriter, remarketing agent, or bond counsel as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.***

(5) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued;~~[and]~~

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 14. KRS 27A.210 is amended to read as follows:

(1) The following books and records shall be maintained by the State Law Library:

(a) All copies of Volumes 1 to 77 of the Kentucky Reports;

(b) Twenty-five (25) copies each of Volumes 78 to 314 of the Kentucky Reports;

(c) Two (2) sets of all future publications of the journals and nine (9) sets of the Acts of the General Assembly; and

(d) Two (2) sets of the official Kentucky statute publications.

(2) The state law librarian shall arrange with the proper official of each state of the United States and of the United States and its territories for the exchanges of the statutes and the acts of the legislatures of each state and of Congress. When an exchange is agreed upon, the state law librarian shall send to ***the***~~[such]~~ officer one (1) copy of the Acts of the General Assembly and one (1) set of statutes as soon as they are ready for distribution.

(3) Copies of acts, statutes, and other materials required to be kept by the state law librarian and to be made available for exchange shall be furnished to the state law librarian, without charge, by the agency or official responsible for the distribution of same.

(4) The state law librarian may arrange for the distribution or disposal of materials held by the State Law Library upon concurrence of the administrative assistant to the Chief Justice responsible for law library operations.

(5) The state law librarian may acquire, by purchase, exchange, donation, or otherwise, [~~such~~]books and other materials ***the librarian***[~~as he~~] deems suitable for the holdings of the State Law Library.

(6) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, sell ***any***[~~such~~] surplus books in the State Law Library ***that***[~~as~~] have a market value, collect the funds received therefor, and deposit them in the "State Law Library Surplus Books Fund," which is hereby created in the State Treasury. The "State Law Library Surplus Books Fund" shall not lapse. The state law librarian may reinvest ***the***[~~such~~] funds in other books and materials that ***the librarian***[~~he~~] deems suitable for the holdings of the State Law Library. The provisions of KRS 45A.045***(5)***[~~(4)~~] concerning the powers and duties of the Finance and Administration Cabinet shall not apply to sales made by the state law librarian ***under this section***[~~hereunder~~].

(7) The state law librarian may, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, offer and provide technical and other assistance to county law libraries and to other publicly funded law libraries.

(8) The state law librarian may, upon the request of a county law library or other publicly funded law library and with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, purchase books, supplies, or other materials for ***the***[~~such~~] library. The funds used for ***these***[~~such~~] purposes shall be those of the county law library or other publicly funded law library.

(9) The state law librarian shall issue, with the concurrence of the administrative assistant to the Chief Justice responsible for law library operations, regulations for the operation, management, and lending policy of the State Law Library.

Section 15. KRS 42.025 is amended to read as follows:

(1) The Division of Printing shall be responsible for the printing and duplicating needs of state agencies, as ***designated by the Finance and Administration Cabinet***[~~provided by KRS Chapters 45A and 57. The division shall include printing consultants to advise and assist state agencies in advance planning on an annual basis of their printing needs and a forms control unit to review the requirements of state agencies for various kinds of forms and to advise and assist state agencies in forms control, development and revisions~~].

(2) The Division of Postal Services shall operate the centralized postal services for executive branch agencies as set forth in KRS 12.020. The division shall operate at a central location with additional locations necessary to maintain and improve service levels.

Section 16. KRS 45.101 is amended to read as follows:

(1) Except as otherwise provided by law, each state officer or employee who is authorized by law to receive, from corporations or from the State Treasury or from any fund appropriated out of the State Treasury,[~~ his~~] traveling or other expenses incident to the discharge of[~~ his~~] official duties, shall submit to the Finance and Administration Cabinet ***information regarding the expenses and necessary receipts as provided by administrative regulation promulgated by the Finance and Administration Cabinet provided that any expenses in excess of ten dollars ($10) shall be accompanied by a receipt, unless the Finance and Administration Cabinet increases the minimum expense amount for which a receipt is required as provided in this Section. The required information and documentation shall be provided***[~~an itemized statement of such expenses, accompanied by a receipt for each item of expense in excess of two dollars ($2),~~] before the cabinet shall audit or pay ***the***[~~such~~] expenses. ***The Finance and Administration Cabinet may promulgate an administrative regulation to increase the minimum expense amount for which a receipt is required, not to exceed twenty-five dollars ($25).*** The Finance and Administration Cabinet may rely on a preaudit performed by the budget unit as a basis for issuing a warrant.

(2) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit budget units to contract with airlines, railroads, hotels, or other companies for services to a group of their employees while on official travel status. ***The***[~~Such~~] expenses are to be submitted to the Finance and Administration Cabinet on forms prescribed by the Finance and Administration Cabinet before the cabinet shall audit or pay ***the***[~~such~~] expenses.

(3) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit state officers or employees to assign their claim for reimbursement of travel expenses to airline, railroad, hotel, or other companies in payment of services rendered as provided for in ***subsections (1) and***[~~subsection~~] (2) of this section[~~ and as shown on the itemized statement and receipts as provided for in subsection (1) of this section, which statements and receipts shall indicate that such company has extended credit to said officer or employee in the name of the state and incident to the discharge of his official duties~~].

(4) Each state officer or employee who by reason of the duties assigned to ***the officer or employee's***[~~this~~] office is required to

be at the state capital for the majority of the time, or who has an office located at the state capital, shall not be permitted to charge for expenses except from the state capital to the place where the business ***the officer or employee***[~~he~~] is transacting is to be transacted, and from that place back to the state capital, and each officer or employee who is assigned to duty at some place other than the state capital shall only be permitted to charge to the state such expenses as are incurred in going from that place to the place where the business is transacted, and returning. Expenses in going from the state capital or the place where the officer or employee is assigned to duty to the officer's or employee's real place of residence, or in return therefrom, shall not be allowed unless it is shown that it was necessary for ***the officer or employee***[~~him~~] to make the trip in the discharge of business for the state.

(5) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to permit the payment of travel and other expenses incidental to the official activities of formally organized groups sponsored by or otherwise representing state agencies. The payment may be made direct to service establishments in the manner set forth in subsection (3) of this section, by an inter-account bill between budget units, or by reimbursement to the official or other employee who has been designated as the officer-in-charge of the organized group. If it is necessary that one (1) or more state employees or officials travel with the group, their expenses may be included in the total expenses for the group.

(6) The Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations allowing heads of budget units to establish imprest cash funds for reimbursement of travel expenses.

(7) Except as provided in KRS Chapter 6, but the provisions of any other laws to the contrary notwithstanding, and in lieu of the reimbursement of travel and other incidental expenses authorized by subsection (1) of this section, the Finance and Administration Cabinet may ***promulgate administrative***[~~issue rules and~~] regulations to provide for the payment of a fixed expense allowance per day to be established by the secretary of ***the Finance and Administration Cabinet***[~~said cabinet~~], plus necessary travel expenses, to each state officer or employee who is authorized by law to be reimbursed for expenses incurred in the discharge of[~~ his~~] official duties. This payment shall be made from an appropriation for this purpose to a budget unit of a branch of government.

Section 17. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all ***information technology standards, system attributes, and components***[~~forms~~] to be used in, or in conjunction with, the unified accounting system. ***The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided in KRS 61.950***.

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate[~~ in writing~~] the officer or employee authorized to ***approve***[~~sign~~] advices of employment,[~~ copies of~~] purchase orders and contracts, and requisitions for reservation of funds, and no[~~ such~~] advice, order, contract, or requisition shall be honored as a commitment statement unless the designation ***has been conveyed to***[~~, with a copy of the signature of the officer or employee designated, is on file in the office of~~] the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure [~~document~~] presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 18. KRS 45.306 is amended to read as follows:

The Finance and Administration Cabinet shall examine all ***formats***[~~blank forms~~] used or proposed for use by any budget unit for the purposes specified in this section, and shall design or redesign them with a view to providing for the simplification, unification, and integration of financial and business administrative records and procedures.[~~ The Finance and Administration Cabinet shall also prescribe, and enforce adherence to, standard sizes, colors, and designs of forms, including styles of type and qualities and grades of paper.~~] This section shall apply to all ***financial and nonfinancial electronic commerce standards to ensure consistent internal control and system integration in accordance with Commonwealth information technology architecture***[~~forms~~] for use in accounting, preauditing, State Treasury administration, personnel administration, purchasing, property control, and other matters of financial and business administration of the state or any budget unit thereof, with the exception of uniform forms for use in the preparation of budget estimates, requests, and recommendations provided for by KRS

48.040.

Section 19. KRS 45.310 is amended to read as follows:

The Finance and Administration Cabinet shall keep an accurate ***record***[~~account, in books,~~] of all warrants and certificates drawn or issued by the cabinet, showing in due succession the date, number, and amount of each warrant, and for what and to whom issued. The cabinet shall also keep a ***record of***[~~book in which shall be entered~~] all receipts[~~ by the State Treasurer for money~~] paid into the State Treasury.

Section 20. KRS 45.313 is amended to read as follows:

Each budget unit shall maintain a current inventory of equipment having an original cost of ***five***[~~one~~] hundred dollars ***($500)***[~~($100)~~] or more[~~ and all supplies~~]. ***The***[~~Such~~] inventory[~~ of supplies and equipment~~] shall be available for examination by the Finance and Administration Cabinet at all times.[~~ A copy of the inventory of each budget unit shall be filed with the Finance and Administration Cabinet as of June 30 of each year.~~]

Section 21. KRS 45.453 is amended to read as follows:

All bills shall be paid within thirty (30) working days of receipt of ***goods and services or*** a vendor's invoice except when[~~ payment is delayed because~~] the purchasing agency has ***transmitted a rejection notice to***[~~made a written disapproval of improper performances or improper invoicing by~~] the vendor[~~ or by the vendor's subcontractor~~].

Section 22. KRS 45.455 is amended to read as follows:

A purchasing agency shall transmit ***authorization for payment***[~~a vendor's approved invoice with required~~] documentation to the Finance and Administration Cabinet within ten (10) working days of receipt of ***goods or services or*** the ***vendor's*** invoice by the purchasing agency.

Section 23. KRS 45.456 is amended to read as follows:

The Finance and Administration Cabinet shall transmit a warrant for payment to the ***State Treasurer***[~~Department of the Treasury~~] within ten (10) working days of receipt of ***the authorization for payment documentation from the***[~~a vendor's approved invoice by the Finance and Administration Cabinet from a~~] purchasing agency. ***When***[~~In those cases in which~~] the Finance and Administration Cabinet is the purchasing agency, the cabinet shall transmit a warrant for payment to the ***State Treasurer***[~~Department of the Treasury~~] within twenty (20) working days of receipt of ***the authorization for payment documentation***[~~a vendor's approved invoice~~].

Section 24. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

  (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

  (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

  (c) The Finance and Administration Cabinet shall attempt in every practicable way to ***ensure***[~~insure~~] that state agencies are ***fulfilling their business needs through the application of the best value criteria***[~~acquiring their real needs at the lowest possible cost~~].

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures, and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general ***administrative*** regulations ***promulgated***[~~prescribed~~] by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of[~~ all property (including~~] any interest in real property[~~)~~] of the state which is not needed, or has become unsuitable for public use, or would be more suitable to

the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any[~~ such~~] real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all[~~ such property (including any~~] interests in real property[~~)~~] shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for ***the***[~~such~~] requirements of that cabinet.

(5) ***The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Purchases, Surplus Property Branch, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.***

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall ***promulgate administrative***[~~adopt~~] regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7)[~~(6)~~] The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8)[~~(7)~~] Nothing in this section shall ***prevent***[~~deprive~~] the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(9)[~~(8)~~] Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself ***or herself,*** through any other person influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10)[~~(9)~~] The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11)[~~(10)~~] For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;

(b) A package system commonly referred to as "turnkey";

(c) Phase bidding commonly referred to as "fast track"; or

(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12)[~~(11)~~] The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in this code, and shall ***promulgate administrative regulations to*** designate[~~ by regulation~~] the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 25. KRS 45A.050 is amended to read as follows:

(1) Except as provided in KRS 45A.800 to 45A.835 and KRS Chapters 175, 176, 177, and 180, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any state agency under the several statutes relating thereto, are hereby transferred to the secretary of the Finance and Administration Cabinet as provided in this code, subject to the provisions of subsection (2) of this section.

(2) Unless otherwise ordered by the secretary of the Finance and Administration Cabinet, the acquisition of the following shall not be required through the Finance and Administration Cabinet:

(a) Works of art for museum and public display;

(b) Published books, maps, periodicals, and technical pamphlets; and

(c) Services of visiting speakers, professors, and performing artists.

(3) The Finance and Administration Cabinet shall include in all state agency price contracts for the purchase of materials or supplies a provision that, as approved by the secretary of the Finance and Administration Cabinet, any political subdivision, including cities of all classes, counties, school districts, or special districts, may participate in such contracts to the same extent as the Commonwealth. Any political subdivision may purchase materials and supplies pursuant to a contract for such supplies and materials entered into by the Finance and Administration Cabinet for the Commonwealth, including those contracts negotiated by the cabinet with vendors who maintain a general service administration price agreement as provided in subsection ***(8)***[~~(7)~~] of KRS 45A.045. Political subdivisions of the Commonwealth must comply with other provisions of the Kentucky Revised Statutes which require purchase by competitive bidding, before participating in the contract, unless the state contract has been let by competitive bidding, or the contract was negotiated as provided in subsection ***(8)***[~~(7)~~] of KRS 45A.045.

(4) The Finance and Administration Cabinet shall inform the Department of Local Government, which shall then inform the appropriate purchasing agent of each political subdivision, interested in participating under this section, of all state agency contracts in effect between the Commonwealth and vendors.

(5) The secretary of the Finance and Administration Cabinet shall promulgate ***administrative***[~~the rules and~~] regulations necessary for the implementation of this section and necessary to provide that the Commonwealth be reimbursed for any additional expenses incurred by the Commonwealth in allowing political subdivisions to participate in contracts with vendors.

(6) The Finance and Administration Cabinet shall comply with all provisions relating to the methods of purchasing in the Kentucky Revised Statutes. This section is not intended to repeal or otherwise affect any provision of the Kentucky Revised Statutes regarding purchasing methods of the Finance and Administration Cabinet.

Section 26. KRS 45A.070 is amended to read as follows:

As used in KRS 45A.070 to 45A.165, unless the context in which they are used clearly requires a different meaning:

(1) "Cost-reimbursement contract" ***means***[~~shall mean~~] a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles [~~(~~]as provided in KRS 45A.215[~~)~~], and a fee, if any.

(2) "Established catalogue price" ***means***[~~shall mean~~] the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(3) "***Best value" means a procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth. These decisions shall be based on objective and quantifiable criteria that shall include price and that have been communicated to the offerors as set forth in the invitation for bids.***[~~Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to measurable criteria, set forth in the invitation for bids:~~

~~(a) Including, but not limited to, inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose;~~

~~(b) Which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, and residual value; and~~

~~(c) Which shall be used to determine acceptability.~~]

(4) "Invitation for bids" ***means***[~~shall mean~~] all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.080 of this code.

(5) "Request for proposals" ***means***[~~shall mean~~] all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.085, 45A.090, 45A.095 or 45A.100.

(6) "Responsible bidder or offeror" ***means***[~~shall mean~~] a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) "Responsive bidder" ***means***[~~shall mean~~] a person who has submitted a bid under KRS 45A.080 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

Section 27. KRS 45A.080 is amended to read as follows:

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(a) Specifications can be prepared that permit award on the basis of ***best value***[~~either the lowest bid price or the lowest evaluated bid price~~]; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state ***that awards***[~~whether award~~] shall be made on the basis of ***best value***[~~the lowest bid price or the lowest evaluated bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids~~].

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth[~~ therein~~] for the opening of bids. The notice ***may***[~~shall~~] include publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet for all price contracts and purchase contracts estimated to exceed twenty-five thousand dollars ($25,000) not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection.

(5) The contract shall be awarded[~~ with reasonable promptness~~] by written notice to the responsive and responsible bidder whose bid ***offers the best value***[~~is either the lowest bid price or lowest evaluated bid price~~].

(6) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the secretary.

Section 28. KRS 45A.085 is amended to read as follows:

(1) When, under ***administrative*** regulations ***promulgated***[~~issued~~] by the secretary, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts may be competitively negotiated when it is determined in writing by the purchasing officer that the ***bids***[~~bid prices~~] received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which[~~:~~

~~(a)~~] each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate[~~; and~~

~~(b) The negotiated price is lower than the lowest rejected bid by any competitive bidder; and~~

~~(c) The negotiated price is the lowest negotiated price offered by any competitive offeror~~].

(4) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(6) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where ***the***[~~such~~] prices are fixed by law or ***administrative*** regulation, except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or[~~ accurate~~] prior[~~ cost~~] experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable ***best value procurement***[~~prices~~], and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 29. KRS 45A.090 is amended to read as follows:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the[~~ lowest~~] responsive and responsible bidder ***whose bid offers the best value***; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080, then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS 45A.085 shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the ***most***[~~lowest~~] responsive and responsible bidders***, based on criteria contained in the***[~~ to the competitive sealed~~] bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of ***best value***[~~the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror~~].

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Section 30. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under ***administrative*** regulations ***promulgated***[~~issued~~] by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the ***best value***[~~lowest acceptable quotation~~]. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists; and

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer, may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations, and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

Section 31. KRS 45A.300 is amended to read as follows:

(1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. ***This***[~~Such~~] cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

(2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.165.

(3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045***(5)***[~~(4)~~] and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

(4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to ***the***[~~such~~] terms as may be agreed upon between the parties.

(5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars ($2,500).

(6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

Section 32. KRS 45A.660 is amended to read as follows:

The Finance and Administration Cabinet may, for satisfactory reason consistent with its responsibility to attempt in every practical way to ***ensure***[~~insure~~] that state agencies are acquiring their real needs ***through the application of best value criteria***[~~at the lowest possible cost or to the best advantage of the state~~], waive any requirements of this code in instances where purchases are made by the Commonwealth of Kentucky or any agency thereof from the federal government or any agency thereof or from any other state government or any agency thereof.

Section 33. KRS 45A.695 is amended to read as follows:

(1) No one shall begin work on a personal service contract made by any contracting body except as provided in subsection (8) of this section, until after ***a copy***[~~three (3) copies~~] of the personal service contract ***is***[~~are~~] filed with the Legislative Research Commission. Each service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each copy of a proposed personal service contract submitted to the Legislative Research Commission shall be accompanied by documentation of:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service; and

(c) In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3).

(3) Adequate notice of the need for the services shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or a designee of the officer may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or a designee of the officer, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals, and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors, in the order of their respective qualification ranking. In this case the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of ***the***[~~such~~] officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing[~~ thereof~~] and shall maintain a file of[~~ such~~] personal service contracts for public inspection, with suitable indexes.

(7) Payment on contracts submitted to the subcommittee shall not be made before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary.

(8) In the event of a governmental emergency, work may begin prior to filing ***a copy***[~~three (3) copies~~] of the personal service contract with the Legislative Research Commission providing that the normal process will not accommodate the emergency.

(9) If an emergency exists and work is authorized to begin immediately, ***a copy***[~~three (3) copies~~] of a statement, approved by the secretary of the Finance and Administration Cabinet, setting forth in detail the nature of the emergency shall be filed with the ***copy***[~~three (3) copies~~] of the personal service contract.

Section 34. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts on which the estimated cost does not exceed ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] shall be exempt from review by the subcommittee. Personal service contracts of ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] or less shall be filed with the subcommittee prior to their effective date pursuant to KRS 45A.695 for informational purposes. The subcommittee shall periodically examine the informational copies of personal service contracts of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] and payment of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] for personal services and may request agency participation in discussions relative to their contracts or payments.

(2) All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates. If a personal service contract of less than ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] is amended to the extent the amended total of the contract exceeds ***twenty***[~~one~~] thousand dollars ***($20,000)***[~~($1,000)~~] per calendar year, the amended contract shall be placed on the agenda for the subcommittee's review.

Section 35. KRS 56.782 is amended to read as follows:

The Finance and Administration Cabinet shall report on or before October 15 in odd-numbered years to the Legislative Research Commission on progress made to maximize the use of energy efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes.

The report shall include, but not be limited to:

(1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy efficiency measures, including employee training efforts;

(2) A summary of energy efficiency measures installed and energy improvements made during the reporting period;

(3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy efficiency measures and improvements;

(4) Status report on efforts to assure buildings newly constructed, renovated, or leased are energy-efficient;

(5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045***(12)***[~~(11)~~]; and

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government.

Section 36. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector.

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. ***In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.***

Section 37. KRS 42.500 is amended to read as follows:

(1) There shall be a State Investment Commission composed of the Governor who shall be chairman, the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor, the secretary of the Finance and Administration Cabinet, and two (2) persons appointed by the Governor.

(2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

(3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his ***or her*** signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:

(a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and

(b) Participate in the consideration of, and vote upon, business and transactions of the commission.

Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.

(5) Any designation of an alternate may, at the appointing member's direction:

(a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;

(b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or

(c) Be revoked at any time by the appointing member in an instrument in writing, over his ***or her*** signature, filed with the secretary of the commission as a public record of the commission.

(6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.

(7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.

(8) The provisions of KRS 61.070 shall not apply to members of the commission.

(9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:

(a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a U.S. government agency, including but not limited to:
  1. U.S. Treasury;
  2. Export-Import Bank of the United States;
  3. Farmers Home Administration;
  4. Government National Mortgage Corporation; and
  5. Merchant Marine bonds;

(b) Obligations of any corporation of the U.S. government, including but not limited to:
  1. Federal Home Loan Mortgage Corporation;
  2. Federal Farm Credit Banks;
    a. Bank for Cooperatives;
    b. Federal Intermediate Credit Banks;
    c. Federal Land Banks;
  3. Federal Home Loan Banks;
  4. Federal National Mortgage Association; and
  5. Tennessee Valley Authority obligations;

(c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;

(d) Bankers acceptances for banks rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;[~~and~~]

(g) ***United States denominated corporate, Yankee, and Eurodollar securities, excluding corporate stocks, issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest categories by a nationally recognized rating agency;***

(h) Asset-backed securities rated in the highest category by a nationally recognized rating agency; and

(i) Shares of mutual funds, not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, each of which shall have the following characteristics:
  1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended; and
  2. The management company of the investment company shall have been in operation for at least five (5) years; and

3. At least ninety percent (90%) of the securities in the mutual fund shall be eligible investments pursuant to this section.

(10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds and the regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments; and

(e) The acceptable maturity of investments.

(11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.

(12) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed. Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts, shall accrue to the capital construction investment income account. If the total general fund revenue receipts are less than the total revenue estimates for the general fund under KRS 48.120 and 48.130 the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues. If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the revenue estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.

(13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the ***administrative*** regulations mandated by KRS 42.525.

(15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Section 38. KRS 42.525 is amended to read as follows:

(1) The State Investment Commission shall ***promulgate administrative***[~~adopt~~] regulations[~~, no later than January 1, 1983,~~] for the investment and reinvestment of state funds and the acquisition, retention, management, and disposition of investments.

(2) The regulations shall specify:

(a) The long and short term goals of any investment;

(b) The specification of moneys to be invested;

(c) The amount of funds which may be invested per instrument;

(d) The qualifications of instruments;

(e) [~~Minimum interest rates for funds invested long and short term;~~

~~(f)~~]The acceptable maturity of investments;

(f)[~~(g)~~] The investment procedure with respect to in-state and out-of-state depositories provided that funds available for investment shall be offered first to qualified Kentucky depositories consistent with the investment guidelines; and

(g)[~~(h)~~] The distribution method of funds among types of institutions.

Section 39. KRS 42.535 is amended to read as follows:

Each agency holding funds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed by the listed funds during each fiscal year, on or before the ***fifteenth***[~~15th~~] of July, showing the receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each listed fund to the ***Office of the Controller***[~~State Investment Commission~~]. The funds which shall be reported are:

(1) The county sinking fund;

(2) Tobacco research trust fund;

(3) The uninsured employers' fund;

(4) The administrative fund created by KRS 342.440, also known as the workers' compensation maintenance fund;

(5) The special claim fund; ***and***

(6) The common school fund.

Section 40. KRS 42.540 is amended to read as follows:

Notwithstanding KRS 41.290, every nonprofit fiduciary holding funds for the benefit of any form of state organization, including, but not limited to, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, and the State Fair Board shall make a report according to generally~~-~~accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return in investments to the ***Office of the Controller***[~~State Investment Commission~~]. ***These***[~~Such~~] fiduciaries include, but are not limited to Eastern Kentucky University Foundation; Kentucky State University Foundation, Inc.; Morehead State University Foundation, Inc.; Morehead Alumni Foundation, Inc.; Eagle Athletic Foundation, Inc.; Murray State University Foundation; Northern Kentucky University Foundation, Inc.; University of Kentucky Research Foundation; University of Kentucky Athletics Association; The Fund for the Advancement of Education and Research in the University of Kentucky Medical Center; Health Care Collection Service, Inc.; McDowell Cancer Network, Inc.; University of Kentucky-Business Partnership Foundation, Inc.; Kentucky Medical Services Foundation, Inc.; University of Louisville Foundation, Inc.; University of Louisville Hospital, Inc.; University of Louisville Institute of Industrial Research, Inc.; University of Louisville Medical School Fund, Inc.; The College Heights Foundation; KFEC Research and Development Foundation, Inc.; Kentucky Export Resources Authority, Inc.; and all similar nonprofit fiduciaries for the benefit of any form of state organization and their successors.

Section 41. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the ***fifteenth***[~~15th~~] of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the ***Office of the Controller***[~~State Investment Commission~~]. The agencies required to report under this section are Eastern Kentucky University; Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; The Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority; Capital Plaza Authority; State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 42. KRS 42.550 is amended to read as follows:

The Department of Education shall make a report according to generally accepted accounting principles of all money received and disbursed from the common school fund and the Support Education Excellence in Kentucky (SEEK) Program, to local school districts showing their receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each fund to the ***Office of the Controller***[~~State Investment Commission~~] for each fiscal year on or before the ***fifteenth***[~~15th~~] of July.

Section 43. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management and Economic Analysis established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to ***41.375***[~~41.390~~] and ***KRS*** 42.500, have and perform functions and duties as follows:

    (a) The analysis and management of short and long-term cash flow requirements;

    (b) The maximization of the return on state investments given the cash flow and liquidity requirements;

    (c) The coordination and monitoring of cash needs relative to investment and debt activity;

    (d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

    (e) The evaluation of revenue projections relative to proposed revenue bond issues;

(f) The performance of the cabinet's revenue estimating and economic analysis functions and responsibilities, including, but not limited to, those functions and responsibilities assigned to the cabinet by KRS 48.120;

(g) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;

(h) The tax administrative function of utilizing tax data to provide the Revenue Cabinet with studies, projections, statistical analyses, and any other information that will assist the Revenue Cabinet in performing its tax administrative functions; and

(i) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.

(2) The Office of Financial Management and Economic Analysis shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management and Economic Analysis shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The Office of Financial Management and Economic Analysis shall submit a report within forty-five (45) days after the publication of the Comprehensive Annual Financial Report to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal, and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal, and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service, and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population, and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525.

Section 44. KRS 56.782 is amended to read as follows:

The Finance and Administration Cabinet shall report on or before October 15 in odd-numbered years to the Legislative Research Commission on progress made to maximize the use of energy efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include, but not be limited to:

(1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy efficiency measures, including employee training efforts;

(2) A summary of energy efficiency measures installed and energy improvements made during the reporting period;

(3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy efficiency measures and improvements;

(4) Status report on efforts to assure buildings newly constructed, renovated, or leased are energy-efficient;

(5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045***(12)***[~~(11)~~]; and

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government.

Section 45. The following KRS sections are repealed:

41.390 Power to borrow money and issue negotiable notes.
42.515 Investments to be offered first to Kentucky depositories.
45A.710 Personal service contracts for advertising, promotional, or public relations services.
57.031 State printing under control of Finance and Administration Cabinet -- Qualifications of buyer.
57.041 Requisitions for printing.
57.051 Printing specifications.
57.061 Advertisement for bids.
57.071 Bond of bidders -- Condition.
57.081 Restraint of competitive bidding.
57.111 Paper furnished by the printer -- Bills for paper or stationery -- Form.
57.121 Rejection of work -- Reprinting.
57.131 Title to plates and art work.
57.141 Cancellation of contract -- Grounds.
57.280 Biennial report of the Finance and Administration Cabinet to General Assembly.

Section 46. Whereas it is in the best interests of the Commonwealth to implement cost-saving and efficiency related measures as expediently as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Representative Geveden moved that the House concur in Senate Committee Substitute to **HB 5**.

Representative Stumbo moved that the rules be suspended to allow the House to act upon the Senate Committee Substitute to **HB 5** since the Senate Committee Substitute was not in the members possession.

Roll call to suspend the rules to allow the House to act upon the Senate Committee Substitute to **HB 5** is as follows: **Yeas 89**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 1**--Crall. The motion to suspended the rules to allow the House to act upon the

Senate Committee Substitute to **HB 5** was adopted.

Representative Geveden moved that the House concur in the Senate Committee Substitute to **HB 5**. Agreed.

Senate Floor Amendment No. 4 to **HB 5** is as follows:

On page 41, lines 7 through 23, by deleting Section 34 in its entirety and renumbering subsequent Sections accordingly.

Representative Geveden moved that the House concur in Senate Floor Amendment No. 4 to **HB 5**. Agreed.

Representative Geveden moved that **HB 5**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See May 30, 1997 roll call on **HB 5** - Appendix)

HB 5, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 5**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **SCR 40**:

SCR 40, A CONCURRENT RESOLUTION adjourning the 1997 Extraordinary Session of the General Assembly sine die.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and House of Representatives adjourn on Friday, May 30, 1997, they do adjourn sine die.

There being no objection **SCR 40** was adopted.

Representative Riggs moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Riggs moved the adoption of the following **HR 35**:

HR 35, A RESOLUTION adjourning the House of Representatives in memory of Opal A. Craft.

WHEREAS, Opal A. Craft was born August 6, 1920, at Leeburn in Knott County; and

WHEREAS, Opal A. Craft was the daughter of the late Henry and Hattie Slone Amburgey; and

WHEREAS, Opal A. Craft moved to Frankfort in September, 1960, where she resided until her passing on March 14, 1997; and

WHEREAS, Opal A. Craft was a retired Executive Secretary with the Cabinet for Human Resources, a member of the Franklin County Senior Citizens, American Association of Retired Persons, and a member of the Baptist Church; and

WHEREAS, Opal A. Craft was survived by two daughters, Sandra Sue Scifres and Virginia Lynn Riggs, one brother, Edward Amburgey, one sister, Mrs. Faye Messer, and five grandchildren; and

WHEREAS, Opal A. Craft was preceded in death by her husband, Clinton Craft and son Phillip Craft;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives honors the memory of Opal A. Craft and extends heartfelt sympathy to her family.

Section 2. This honorable body recognizes the joy and love that Opal A. Craft brought to both her family and her community.

Section 3. This honorable body further recognizes the years of service and dedication that Opal A. Craft extended to the citizens of the Commonwealth of Kentucky.

Section 4. When the House of Representatives adjourns this day, it does so in remembrance of Opal A. Craft.

Section 5. The Clerk of the House of Representatives is hereby directed to transmit four copies of this Resolution to Representative Steve Riggs.

There being no objection **HR 35** was adopted.

Representative Sims moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Sims moved the adoption of the following **Legislative Citation No. 57**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Laura Jolly. The House of Representatives joins Representative Dottie Sims in expressing its deepest sympathy to all who share in the loss through the tragic and untimely passing of this young Kentucky woman, beloved daughter of James and Marsha Jolly and cherished sister of Daniel Jolly. Laura was a diligent student at Hart County High School, was active in the Foreign Language Club, the Future Homemakers of America and in her church youth group. We remember her today with gratitude for her tender and remarkable presence, with sorrow for the brevity of her journey on this earth and with sincere and heartfelt condolences to her family and her friends. **Legislative Citation No. 57** was adopted without objection.

Representative Maricle moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Maricle moved that he be recorded as voting "nay" on **HB 1**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that his vote be changed from "nay" to "yea" on **HB 4**. Agreed.

Representative Geveden moved the adoption of the following **Legislative Citation No. 59**. Agreed.

The House of Representatives of the Commonwealth of Kentucky joins Representative Charles Geveden in honoring The Honorable Will Shadoan, Ballard County Circuit Judge, upon being named the 1997 Judge of the Year by the Kentucky Bar Association. Judge Shadoan has held several posts and served on a variety of local and state government committees during his thirty-six year career. He has epitomized what a judge should be, making fair but firm rulings on a non-political basis. His love of the law is evident in the manner he handles his court, bringing to it intelligence, efficient management of court dockets, reasonable pace of litigation, exemplary judicial temperament and high energy. Now therefore, this day, this honorable body is pleased to wish him continued success and good fortune as he continues to shape his judicial career and expresses its gratitude for his contributions to this great Commonwealth. **Legislative Citation No. 59** was adopted without objection.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for Senate Messages, Enrolling and Engrossing and those motions concerning the Journal approval. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so until the first Tuesday after the first Monday in January, 1998, unless called into Extraordinary Session by the Governor. Agreed.

Recess

Representative Stumbo moved that the House recess. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 1, HB 2, HB 4, HB 5,** and **HJR 6** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:40 p.m.)

HB 1, HB 2, HB 4, HB 5, and **HJR 6** delivered to the Senate and signed by the President. Delivered to the Governor on May 30, 1997 at 5:02 p.m.

The following members filed requests to have their names be added as co-sponsors of the following Resolutions under the rules previously suspended: **HR 29**, Representatives Marzian, Wayne, Johns, Jenkins, Jordan; **HR 12**, Representative Bruce.

Representative Callahan moved that the reading of the Journal for May 30, 1997, be dispensed and same approved. Agreed.

The Journal of the House of Representatives for the 1997 First Extraordinary Session was read, compared and approved by the House.

Anouncements

The following meetings were announced:

Majority Caucus, upon recess in the Supreme Court Chambers

Minority Caucus, upon recess, Room 316

Adjournment

Representative Callahan moved that the House adjourn sine die until Tuesday , January 6, 1998, unless otherwise called into extraordinary session by the Govenor.

The motion to adjourn sine die was adopted by voice vote.

APPENDIX A

1997 FIRST EXTRAORDINARY SESSION

MEMBERSHIP OF HOUSE OF REPRESENTATIVES

APPENDIX A - MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES
1997 FIRST EXTRAORDINARY SESSION

OFFICERS

SPEAKER	**REPRESENTATIVE JODY RICHARDS**
SPEAKER PRO TEM	**REPRESENTATIVE LARRY CLARK**
CHIEF CLERK	**EVELYN MARSTON**
ASSISTANT CLERK	**JULIE WHEAT**
ENROLLING CLERK	**MARGARET WATTS**
SERGEANT AT ARMS	**EMMETT A. SLATTERY**
CHIEF DOORKEEPER	**WILLIAM "BUNNY" DAVIS**
CLOAKROOM KEEPER	**AUBREY MORRIS**
CLOAKROOM KEEPER	**FRANK SMITH**
JANITOR	**GEORGE FRITZ**
PAGE	**JOHN BROOKS**
PAGE	**CLARK CASE**
PAGE	**SHANNON DOLL**
PAGE	**MARTHA STANY**

1st District
Charles R. Geveden
P.O. Box 518
Wickliffe, KY 42087

2nd District
Fred Nesler
P. O. Box 323
Mayfield, KY 42066

3rd District
Frank Rasche
2929 Jefferson St.
Paducah, KY 42001

4th District
Kathy Hogancamp
300 Acorn
Paducah, KY 42003

5th District
Freed Curd
1607 Sycamore
Murray, KY 42071

6th District
J. R. Gray
3188 Mayfield Hwy.
Benton, KY 42025

7th District
John A. Arnold, Jr.
1301 North Lee
Sturgis, KY 42459

8th District
John W. Adams
6255 Huffman Mill Rd.
Hopkinsville, KY 42240

9th District
James Edmond Bruce
6750 Ft. Campbell Blvd.
Hopkinsville, KY 42266

10th District
Eddie Ballard
P.O. Box 36
Madisonville, KY 42431

11th District
Gross Clay Lindsay
P.O. Box 19
Henderson, KY 42420

12th District
Jim Gooch, Jr.
P.O. Box 280
Providence, KY 42450

13th District
Brian Crall
3336 Bryant Ct.
Owensboro, KY 42303

14th District
Mark A. Treesh
5735 Grady Court
Philpot, KY 42366

15th District
Brent Yonts
232 Norman Circle
Greenville, KY 42345

16th District
Sheldon E. Baugh
252 West Valley
Russellville, KY 42276

17th District
Willard "Woody" Allen
3750 Gilstrap Road
Morgantown, KY 42261

18th District
Dwight D. Butler
P. O. Box 194
Harned, KY 40144

19th District
Dottie J. Sims
459 Violet Ave.
Horse Cave, KY 42749

20th District
Jody Richards
817 Culpeper St.
Bowling Green, KY 42103

21st District
Roger Thomas
345 Elkins Road
Smiths Grove, KY 42171

22nd District
Rob Wilkey
1418 Reeder School Rd.
Franklin, KY 42134

23rd District
Stephen R. Nunn
121 E. Main
Glasgow, KY 42141

24th District
William U. Scott
260 Frogg Lane
Raywick, KY 40060

25th District
Jimmy Lee
901 Dogwood Drive
Elizabethtown, KY 42701

26th District
John Michael Weaver
131 Mayer Lane
Elizabethtown, KY 42701

27th District
Mark S. Brown
170 Washington St.
Brandenburg, KY 40108

28th District
Bill Lile
11304 Frenchrone Drive
Louisville, KY 40272

29th District
Kevin D. Bratcher
5205 Constance Drive
Louisville, KY 40272

30th District
Tom Burch
4012 Lambert Ave.
Louisville, KY 40218

31st District
Steven Riggs
8108 Thornwood Rd.
Louisville, KY 40220

32nd District
Susan D. Johns
3120 Runnymeade Rd.
Louisville, KY 40222

33rd District
Bob Heleringer
14209 Glendower Dr.
Louisville, KY 40245

34th District
Mary Lou Marzian
2007 Tyler Lane
Louisville, KY 40205

35th District
Jim Wayne
1280 Royal Avenue
Louisville, KY 40204

36th District
Lonnie Napier
302 Danville Street
Lancaster, KY 40444

37th District
Perry B. Clark
5716 New Cut Road
Louisville, KY 40214

38th District
Denver Butler
6712 Morocco Dr.
Louisville, KY 40214

39th District
Robert R. Damron
231 Fairway West
Nicholasville, KY 40356

40th District
Dennis L. Horlander
Ste. 6, 1806 Farnsley Rd.
Louisville, KY 40216

41st District
Tom Riner
1143 E. Broadway
Louisville, KY 40204

42nd District
Eleanor Jordan
2704 Grand Ave. Unit #2
Louisville, KY 40211

43rd District
E. Porter Hatcher, Jr.
901 S. Western Parkway
Louisville, KY 40211

44th District
Joni L. Jenkins
2010 O'Brien Court
Shively, KY 40216

45th District
Stan Cave
P.O. Box 2150
Lexington, KY 40515

46th District
Larry Clark
5913 Whispering Hills Blvd.
Louisville, KY 40219

47th District
Ron Crimm
P. O. Box 43244
Louisville, KY 40253

48th District
Bob M. DeWeese
6206 Glen Hill Rd.
Louisville, KY 40222

49th District
Allen Maricle
P.O. Box 295
Shepherdsville, KY 40165

50th District
Jodie Haydon
106 Hillcrest
Bardstown, KY 40004

51st District
Ricky L. Cox
603 Maple Street
Campbellsville, KY 42718

52nd District
Vernon Miniard, Jr.
222 Michigan Ave.
Monticello, KY 42633

53rd District
Billy D. Polston
P. O. Box 248
Tompkinsville, KY 442167

54th District
Joe Clarke
120 N. Third St. Box 297
Danville, KY 40422

55th District
Jack L. Coleman, Jr.
P.O. Box 600
Burgin, KY 40310

56th District
Joe Barrows
152 Stout Avenue
Versailles, KY 40383

57th District
H. "Gippy" Graham
Room 432G, Capitol Annex
Frankfort, KY 40601

58th District
Marshall Long
P.O. Box 505
Shelbyville, KY 40065

59th District
Jim Zimmerman
3404 Sycamore Rd.
LaGrange, KY 40031

60th District
Paul H. Marcotte
10674 Palestine Dr.
Union, KY 41091

61st District
Royce W. Adams
580 Bannister Rd.
Dry Ridge, KY 41035

62nd District
Charlie Hoffman
406 Bourbon St.
Georgetown, KY 40324

63rd District
Richard L. Murgatroyd
2927 Prospect Pt. Dr.
Villa Hills, KY 41017

64th District
Thomas Robert Kerr
5415 Old Taylor Mill
Taylor Mill, KY 41015

65th District
Arnold R. Simpson
Shutt Mansion, 28 W. Fifth St.
Covington, KY 41011

66th District
Charlie Walton
1663 Brierwood Ct.
Florence, KY 41042

67th District
Jim Callahan
10 Colonel Pointe Dr.
Wilder, KY 41076

68th District
Katie Kratz Stine
15 Cliffview
Ft. Thomas, KY 41075

69th District
Jon David Reinhardt
637 W. Poplar Thicket
Alexandria, KY 41001

70th District
Pete Worthington
1910 Old Main St., Box 214
Washington, KY 41096

71st District
John Will Stacy
P. O. Box 135
West Liberty, KY 41472

72nd District
Jim Lovell
625 High
Paris, KY 40361

73rd District
Drew Graham
10984 Iron Works Rd.
Winchester, KY 40391

74th District
Adrian K. Arnold
3589 Aarons Run Road
Mt. Sterling, KY 40353

75th District
Kathy W. Stein
364 Transylvania Park
Lexington, KY 40508

76th District
Ruth Ann Palumbo
10 Deepwood Dr.
Lexington, KY 40505

77th District
Jesse Crenshaw
121 Constitution St.
Lexington, KY 40507

78th District
Thomas M. McKee
Route 1, Box 56
Cynthiana, KY 41031

79th District
Lawrence W. Brandstetter
2363 Chauvin Drive
Lexington, KY 40502

80th District
Danny Ford
P. O. Box 1245
Mt. Vernon, KY 40456

81st District
Harry Moberly, Jr.
P. O. Box 721
Richmond, KY 40476

82nd District
Charles L. Siler
3570 Tackett Creek Rd.
Williamsburg, KY 40769

83rd District
Jeffrey H. Hoover
288 Lakeview Dr.
Jamestown, KY 42629

84th District
Scott Alexander
Rt. 3, Box 607
Hazard, KY 41701

85th District
Tommy Turner
65 Herrin Ct.
Somerset, KY 42501

86th District
Jim Stewart
HC 76 Box 556
Flat Lick, KY 40935

87th District
Michael Dean Bowling
P.O. Box 859
Middlesboro, KY 40965

88th District
Thomas R. Pope
P. O. Box 391
Harlan, KY 40831

89th District
Marie L. Rader
P. O. Box 323
McKee, KY 40447

90th District
Barbara White Colter
200 Langdon Avenue
Manchester, KY 40962

91st District
Paul Mason
380 Hazard Road
Whitesburg, KY 41858

92nd District
Donnie Newsome
HC 80 Box 1070
Dema, KY 41859

93rd District
Chris Ratliff
P. O. Box 1306. South Mayo Trail
Pikeville, KY 41502

94th District
Herbie Deskins, Jr.
Box 1199
Pikeville, KY 41501

95th District
Gregory D. Stumbo
P. O. Box 511, 614 N. Lake
Prestonsburg, KY 41653

96th District
Walter Gee
110 E. Main
Grayson, KY 41113

97th District
Hubert Collins
72 Collins Lane
Whittensville, KY 41274

98th District
Hoby Anderson
P.O. Box 902
Flatwoods, KY 41139

99th District
Rocky Adkins
P.O. Box 688
Sandy Hook, KY 41171

100th District
John F. Vincent
P.O. Box 2528
Ashland, KY 41101

APPENDIX B

1997 FIRST EXTRAORDINARY SESSION

HISTORY OF HOUSE ACTION ON BILLS AND RESOLUTIONS

APPENDIX B - HISTORY OF HOUSE ACTION ON BILLS AND RESOLUTIONS
1997 FIRST EXTRAORDINARY SESSION

History of House Action on House Bills

Numbers refer to page of House Journal. The text of a bill is given on first reading.

Sponsors are listed when bill is introduced.

*Voting modifications are listed after the roll call vote in Appendix C.

Bill No.	Intro duced	Re- ferred	Re- ported	Readings 1st	2nd	3rd	Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Sent to Gov.)	Other Action
HB 1	1	14	15	15	95	659	95, 109, 110, 187, 188, 261, 262, 263, 264, 271, 272, 273, 274, 275, 289, 290, 358, 359, 426, 497, 498, 564, 566, 567, 635, 644, 645, 646, 647, 650, 651, 652, 657, 746, 747, 748, 749, 753, 755, 756, 757, 758, 759, 760, 770	662, 777	745	746, 747, 748, 749, 753, 755, 756, 757, 758, 759, 760, 761, 765, 767, 770, 777	800 (800)	14, 107, 110, 183, 188, 261, 271, 567, 658, 663, 674, 764, 765, 800
HB 2	2	95	182	182	261	678		678	745		800 (800)	109, 261
HB 3	261	495										
HB 4	663	663	663	663	677	738	681, 707, 729, 730, 731, 733, 734	738	777		800 (800)	673, 674, 678, 680, 682, 705, 729, 730, 800
HB 5	677	682	682	682	729	737	708, 734, 777, 799	738, 799	777	777, 779, 798	800 (800)	682, 705, 708, 730, 739

History of House Action on House Resolutions

Numbers refer to page of House Journal. The text of a resolution is given on first reading or adoption.

Bill No.	Intro duced	Re- ferred	Re- ported	Readings 1st	2nd	3rd	Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
HR 1	2							14				2
HR 2	2							14				14
HR 3	2							14				14
HR 4	87							96				95, 96
HR 5	87							107				106, 107
HJR 6	95	109	260	260	495	705		705	760		800 (800)	109, 678
HR 7	96							106				96
HR 8	109							184				183, 184

History of House Action on House Resolutions Continued

Bill No.	Intro duced	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HR 9	187							270				270
HR 10	261							270				269
HR 11	495							567				566
HR 12	495							497				496, 497, 565, 739, 760, 800
HR 13	495							496				
HR 14	565							566				565, 566
HR 15	658							673				
HR 16	658							674				673
HR 17	677							679				678, 679
HR 18	677							705				704
HR 19	677							704				
HR 20	681							731				730
HR 21	681							769				
HR 22	681											
HR 23	703							703				
HR 24	708							733				732
HR 25	708							733				
HR 26	741							744				743
HR 27	743							743				
HR 28	745							745				
HR 29	745							761				800
HR 30	746							767				
HR 31	764							764				
HR 32	761							762				761, 762
HR 33	762							763				762
HR 34	770							777				
HR 35	770							799				

History of House Action on House Resolutions Continued

Bill No.	Intro duced	Re- ferred	Re- ported	Readings 1st	Readings 2nd	Readings 3rd	Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
HR 36	768							769				768

History of House Action on Senate Resolutions

Concurrent Resolutions are designated SCR.

Bill No.	Senate Message	Re- ferred	Re- ported	Readings 1st	Readings 2nd	Readings 3rd	Sub or Amend	Voting*	Concur Activities	Enrolled	Other Action
SCR 40	767							799			

APPENDIX C

1997 FIRST EXTRAORDINARY SESSION

ROLL CALL VOTES

APPENDIX C - ROLL CALL VOTES
1997 FIRST EXTRAORDINARY SESSION

HB 1 (May 20) YEAS: 76

ADAMS, R.
ADKINS
ALEXANDER
ARNOLD, A.
BALLARD
BARROWS
BOWLING
BRATCHER
BROWN
BRUCE
BURCH
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CLARK, L.
CLARK, P.
CLARKE
COLEMAN
COLLINS
COLTER
CRALL
CRENSHAW
CRIMM
CURD
DEWEESE
GEVEDEN
GOOCH
GRAHAM, D.
GRAHAM, G.
GRAY
HATCHER
HAYDON
HELERINGER
HOFFMAN
HORLANDER
JENKINS
JOHNS
JORDAN
LEE
LILE
LINDSAY
LONG
LOVELL
MARCOTTE
MARZIAN
MASON
MCKEE
MINIARD
MOBERLY
MURGATROYD
NAPIER
NESLER
NEWSOME
NUNN
POLSTON
POPE
RASCHE
RATLIFF
RICHARDS
RIGGS
RINER
SCOTT
SILER
SIMPSON
SIMS
STACY
STEIN
STUMBO
THOMAS
TREESH
WAYNE
WEAVER
WILKEY
WORTHINGTON
YONTS
ZIMMERMAN

NAYS: 24

ADAMS, J.
ALLEN
ANDERSON
ARNOLD, J.
BAUGH
BRANDSTETTER
CAVE
COX
DAMRON
DESKINS
FORD
GEE
HOGANCAMP
HOOVER
KERR
MARICLE
PALUMBO
RADER
REINHARDT
STEWART
STINE
TURNER
VINCENT
WALTON

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ADAMS, R.
ADKINS
ALEXANDER
ARNOLD, A.
BALLARD
BARROWS
BOWLING
BRATCHER
BROWN
BURCH
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CLARK, L.
CLARK, P.
CLARKE
COLEMAN
COLLINS
COLTER
CRALL
CRENSHAW
CRIMM
CURD
DEWEESE
GEVEDEN
GOOCH
GRAHAM, D.
GRAHAM, G.
GRAY
HATCHER
HAYDON
HELERINGER
HOFFMAN
HORLANDER
JENKINS
JOHNS
JORDAN
LEE
LILE
LINDSAY
LONG
LOVELL
MARCOTTE
MARZIAN
MASON
MCKEE
MINIARD
MOBERLY
MURGATROYD
NAPIER
NUNN
POLSTON
POPE
RASCHE
RATLIFF
RICHARDS
RIGGS
RINER
SCOTT
SILER
SIMPSON
SIMS
STACY
STEIN
STUMBO
THOMAS
TREESH
WAYNE
WEAVER
WILKEY
WORTHINGTON
YONTS
ZIMMERMAN

NAYS: 25

ADAMS, J.
ALLEN
ANDERSON
ARNOLD, J.
BAUGH
BRANDSTETTER
BRUCE
CAVE
COX
DAMRON
DESKINS
FORD
GEE
HOGANCAMP
HOOVER
NESLER
NEWSOME
PALUMBO
RADER
REINHARDT
STEWART
STINE
TURNER
VINCENT
WALTON

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ADAMS, J.
ADAMS, R.
ADKINS
ALEXANDER
ANDERSON
ARNOLD, A.
ARNOLD, J.
BALLARD
BARROWS
BAUGH
BOWLING
BRANDSTETTER
BROWN
BRUCE
BURCH
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CAVE
CLARK, L.
CLARK, P.
COLEMAN
COLLINS
COLTER
COX
CRALL
CRENSHAW
CRIMM
CURD
DAMRON
DEWEESE
FORD
GEE
GEVEDEN
GRAHAM, D.
GRAHAM, G.
GRAY
HATCHER
HAYDON
HELERINGER
HOFFMAN
HOOVER
HORLANDER
JENKINS
JOHNS
JORDAN
KERR
LEE
LILE
LINDSAY
LONG
LOVELL
MARCOTTE
MARZIAN
MASON
MCKEE
MINIARD
MOBERLY
MURGATROYD
NAPIER
NESLER
NUNN
PALUMBO
POLSTON
RADER
RASCHE
RATLIFF
RICHARDS
RIGGS
RINER
SCOTT
SILER
SIMS
STACY
STEIN
STEWART
STINE
STUMBO
THOMAS
TREESH
TURNER
VINCENT
WAYNE
WEAVER
WORTHINGTON
YONTS
ZIMMERMAN

NAYS: 0

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ADAMS, J.
ADAMS, R.
ADKINS
ALEXANDER
ANDERSON
ARNOLD, A.
BALLARD
BARROWS
BRANDSTETTER
BRATCHER
BROWN
BRUCE
BURCH
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CAVE
CLARK, L.
CLARKE
COLEMAN
COLLINS
COLTER
COX
CRALL
CRENSHAW
CRIMM
CURD
DEWEESE
FORD
GEVEDEN
GOOCH
GRAHAM, D.
GRAHAM, G.
GRAY
HATCHER
HAYDON
HELERINGER
HOFFMAN
HOOVER
HORLANDER
JENKINS
JOHNS
JORDAN
LEE
LILE
LINDSAY
LONG
LOVELL
MARCOTTE
MARICLE
MARZIAN
MASON
MCKEE
MINIARD
MOBERLY
MURGATROYD
NAPIER
NEWSOME
NUNN
POLSTON
POPE
RADER
RASCHE
RATLIFF
RICHARDS
RIGGS
RINER
SCOTT
SILER
SIMPSON
SIMS
STACY
STEIN
STUMBO
THOMAS
TREESH
VINCENT
WAYNE
WEAVER
WILKEY
WORTHINGTON
YONTS
ZIMMERMAN

NAYS: 16

ALLEN
ARNOLD, J.
BAUGH
CLARK, P.
DAMRON
DESKINS
GEE
HOGANCAMP
KERR
NESLER
PALUMBO
REINHARDT
STEWART
STINE
TURNER
WALTON

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ADAMS, J.
ADAMS, R.
ADKINS
ALEXANDER
ALLEN
ANDERSON
ARNOLD, A.
ARNOLD, J.
BALLARD
BARROWS
BAUGH
BRANDSTETTER
BRATCHER
BROWN
BRUCE
BURCH
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CAVE
CLARK, L.
CLARK, P.
CLARKE
COLEMAN
COLLINS
COLTER
COX
CRALL
CRENSHAW
CRIMM
CURD
DESKINS
DEWEESE
FORD
GEE
GEVEDEN
GOOCH
GRAHAM, D.
GRAHAM, G.
GRAY
HATCHER
HAYDON
HELERINGER
HOFFMAN
HOGANCAMP
HOOVER
HORLANDER
JENKINS
JOHNS
JORDAN
KERR
LEE
LILE
LINDSAY
LONG
LOVELL
MARCOTTE
MARICLE
MARZIAN
MASON
MCKEE
MINIARD
MOBERLY
MURGATROYD
NAPIER
NESLER
NEWSOME
NUNN
PALUMBO
POLSTON
POPE
RADER
RASCHE
RATLIFF
REINHARDT
RICHARDS
RIGGS
RINER
SCOTT
SILER
SIMPSON
SIMS
STACY
STEIN
STINE
STUMBO
THOMAS
TREESH
TURNER
VINCENT
WALTON
WAYNE
WEAVER
WILKEY
WORTHINGTON
YONTS
ZIMMERMAN

NAYS: 2

DAMRON
STEWART

HB 5 Final Passage (May 30) YEAS: 90

ADAMS, J.
ADAMS, R.
ADKINS
ALEXANDER
ALLEN
ANDERSON
ARNOLD, A.
BALLARD
BARROWS
BAUGH
BOWLING
BRANDSTETTER
BRATCHER
BRUCE
BURCH
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CAVE
CLARK, L.
CLARK, P.
CLARKE
COLLINS
COLTER
COX
CRALL
CRENSHAW
CRIMM
CURD
DAMRON
DEWEESE
FORD
GEVEDEN
GRAHAM, D.
GRAHAM, G.
GRAY
HATCHER
HAYDON
HELERINGER
HOFFMAN
HOGANCAMP
HOOVER
HORLANDER
JENKINS
JOHNS
JORDAN
LEE
LILE
LINDSAY
LONG
LOVELL
MARCOTTE
MARICLE
MARZIAN
MCKEE
MINIARD
MOBERLY
MURGATROYD
NAPIER
NEWSOME
NUNN
PALUMBO
POLSTON
POPE
RADER
RASCHE
RATLIFF
REINHARDT
RICHARDS
RIGGS
RINER
SCOTT
SILER
SIMPSON
SIMS
STACY
STEIN
STEWART
STINE
STUMBO
THOMAS
TREESH
VINCENT
WALTON
WAYNE
WEAVER
WILKEY
WORTHINGTON
YONTS
ZIMMERMAN

NAYS: 1

GEE

HJR 6 (May 22) YEAS: 71

ADAMS, J.
ADAMS, R.
ADKINS
ALEXANDER
ALLEN
ANDERSON
ARNOLD, A.
BARROWS
BAUGH
BRANDSTETTER
BRATCHER
BROWN
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CAVE
CLARK, L.
CLARK, P.
COLLINS
COLTER
COX
CRIMM
CURD
DAMRON
DEWEESE
FORD
GEVEDEN
GOOCH
GRAHAM, D.
GRAY
HATCHER
HOFFMAN
HOGANCAMP
HOOVER
HORLANDER
JENKINS
JOHNS
JORDAN
KERR
LEE
LILE
LONG
LOVELL
MARCOTTE
MARZIAN
MCKEE
MINIARD
MOBERLY
MURGATROYD
NESLER
NUNN
POLSTON
POPE
RADER
RASCHE
REINHARDT
RIGGS
RINER
SCOTT
SILER
SIMS
STACY
STEIN
STEWART
STINE
STUMBO
THOMAS
TREESH
VINCENT
WAYNE
ZIMMERMAN

NAYS: 0

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JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

1997 Second Extraordinary Session

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 1997,
and in the Two Hundred and Sixth
Year of the Commonwealth

Begun on Tuesday, the Thirtieth Day of September, 1997,
and Adjourned
Sine Die on Wednesday, October 15, 1997

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Second Extraordinary Session of 1997.

The texts of bills and joint resolutions appear on first reading and the texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, and a subject index.

Ms. Jean Wallace and Ms. Wilda Bond prepared the *House Journal* for the 1997 Second Extraordianry Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

DON CETRULO
Director

The Capitol
Frankfort, Kentucky
1997

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HOUSE OF REPRESENTATIVES
OF THE
GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY
SECOND EXTRAORDINARY SESSION
OF 1997

TUESDAY, SEPTEMBER 30, 1997
FIRST LEGISLATIVE DAY

At an Extraordinary Session of the General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on September 30, 1997, the two hundredth and sixth year of the Commonwealth, in compliance with a Proclamation issued by the Governor of the Commonwealth of Kentucky, the Honorable Paul E. Patton, the House of Representatives was called to order by the Honorable Jody Richards, Speaker of the House of Representatives.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Clerk read the following Governor's Proclamation:

Proclamation by Paul E. Patton, Governor of the Commonwealth of Kentucky:

To All To Whom These Presents Shall Come: Pursuant to the power vested in me by Section 80 of the Constitution of the Commonwealth of Kentucky, I Paul E. Patton, Governor of the Commonwealth of Kentucky, do issue this Proclamation, convening the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky, at 4:00 p.m., Tuesday, September 30, 1997, for the sole purpose of considering the following subjects:

(1) Improving the Commonwealth's health insurance and health delivery system by amending or creating new sections of those Chapters of the Kentucky Revised Statutes pertaining to the Commonwealth's health insurance and health delivery system.

(2) Provide within any legislation enacted pursuant to paragraph (1), above, of this Proclamation the following protections for insureds or prospective insureds, including but not limited to:

a. Rate restrictions on premiums insurers may charge unhealthy individuals;

b. Guaranteed renewability of policies, with limited exceptions allowed under federal law;

c. Guaranteed issuance of policies by insurers for insureds willing to pay;

d. limitations on pre-existing condition exclusions; and

e. Portability of coverage.

(3) Create a new appropriation in an amount not to exceed $5 million per fiscal year and provide financing for an entity or fund designated to facilitate health insurance for high risk insureds or prospective insureds and which is created within any legislation enacted pursuant to this Proclamation.

(4) Repealing various provisions of the Kentucky Revised Statutes as necessary

to implement the provisions of this Proclamation.

(5) Declaring an emergency thereby making any legislation enacted pursuant to this Proclamation effective upon the signature of the Governor.

DONE AT THE CAPITOL, in the City of Frankfort, this 30th day of September in the year of our Lord One Thousand Nine Hundred and Ninety-Seven and in the year of the Commonwealth the Two Hundred and Sixth.

Paul E. Patton, Governor

John Y. Brown III, Secretary of State

Speaker Richards stated the Journal will show the membership of the House is the same as that of the 1997 First Extraordinary Session.

The roll was called. All members present except Representatives Brown, Deskins, Geveden, Hogancamp, Murgatroyd, Nesler, Rasche, Ratliff, and Walton.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Introduction of Bills and Resolutions

HB 1, by Representatives Stumbo, Richards, L. Clark, Barrows, and Callahan: AN ACT making an appropriation to the Legislative Research Commission for expenses incurred in connection with the Second Extraordinary Session of 1997 of the General Assembly, and declaring an emergency.

HB 2, by Representatives Burch and Wayne: AN ACT relating to health insurance and declaring an emergency.

HB 3, by Representatives Damron and DeWeese: AN ACT relating to health insurance and declaring an emergency.

HB 4, by Representative Maricle: AN ACT relating to health insurance and declaring an emergency.

HB 5, by Representatives Gooch, Richards, Callahan, L. Clark, and Barrows: AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

HR 1, by Representatives Stumbo, Richards, L. Clark, Barrows and Callahan: A RESOLUTION adopting House of Representatives Rules of Procedure for the 1997 Second Extraordinary Session of the General Assembly.

HR 2, by Representatives Richards, L. Clark, Barrows, Callahan and Stumbo: A RESOLUTION extending an invitation to the pastors of Frankfort Churches to open sessions of the 1997 Second Extraordinary Session with prayer.

HR 3, by Representatives Richards, L. Clark, Barrows, Callahan and Stumbo: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HR 4, by Representative Palumbo: A RESOLUTION adjourning the House of Representatives in honor of WKYT-TV upon the occasion of its 40th anniversary.

Representative Palumbo moved the adoption of the following **HR 4**:

HR 4, A RESOLUTION adjourning the House of Representatives in honor of WKYT-TV upon the occasion of its 40th anniversary.

WHEREAS, WKYT-TV was established on September 30, 1957, as Lexington's first full-time television station, operating daily from 8:00 A.M. until midnight, seven days a week; and

WHEREAS, WKYT-TV is seen in more than 80 out of 120 counties in the Commonwealth, providing news, weather, and sports information to the people and communities of Central and Southeast Kentucky; and

WHEREAS, WKYT-TV has awakened the public conscience and has been "in touch with Kentucky for 40 years;"

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud to recognize WKYT-TV upon the occasion of its 40th anniversary, and wishes to WKYT-TV continued success in all future endeavors.

Section 2. This honorable body hails and salutes the dedication and exemplary work of the men and women of WKYT-TV who continue to make this excellent coverage possible.

Section 3. When the House of Representatives adjourns this day, September 30, 1997, it does so in honor of WKYT-TV upon the occasion of its 40th anniversary.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to WKYT-TV, P.O. Box 55037, Lexington, Kentucky 40555.

There being no objection **HR 4** was adopted.

Representative Stumbo moved that the rules be suspended to act upon the following Resolutions: **HR 1, HR 2, HR 3**. Agreed.

Representative Stumbo moved the adoption of the following **HR 1**:

HR 1, A RESOLUTION adopting House of Representatives Rules of Procedure for the 1997 Second Extraordinary Session of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That, except as provided in Sections 2 and 3 of this Resolution, the Rules adopted to govern the 1997 Organizational Session of the House of Representatives be adopted as the Rules governing the 1997 Second Extraordinary Session of the House of Representatives.

Section 2. That House Rule 49 is amended to read as follows:

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least ***one***~~[three]~~ calendar ***day***~~[days]~~ prior to their consideration the bills and resolutions to be considered by the committee at its next meeting ***and***~~[provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman.]~~ no measure shall be considered except those posted, unless the measure is one which has been recommitted to the same committee from which it was previously reported with a favorable expression. A list of the measures to be considered shall be filed with the Clerk at least ***one***~~[three]~~ calendar ***day***~~[days]~~ prior to the meeting.~~[In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. This rule does not apply to bills with a fiscal impact of more than $20,000.]~~

Section 3. That House Rule 51 is amended to read as follows:

Rule 51. Introduction of Bills. Bills and resolutions may be introduced by filing them with the Bill Introduction Clerk in her office at any time the same is open. Bills and resolutions introduced by filing them with the Bill Introduction Clerk after the House has concluded Item ***5***~~[4]~~, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Bill Introduction Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee.~~[No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.]~~

HR 1 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 2**:

HR 2, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 1997 Second Extraordinary Session with prayer.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open daily sessions of the 1997 Second Extraordinary Session with prayer.

HR 2 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 3**:

HR 3, A RESOLUTION directing appointment of a committee to wait upon the Governor.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the 1997 Second Extraordinary Session of the General Assembly is prepared to receive any message he may care to deliver.

HR 3 was adopted by voice vote.

Pursuant to **HR 3**, the Speaker appointed the following committee to wait upon the Governor: Representatives Weaver, Johns, R. Adams, Lovell, Pope and Colter.

Recess

Representative Stumbo moved that the House recess for a Committee on Committees meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 1, HB 2, HB 3, HB 4, HB 5**

Report of Committee

The Clerk announced the Committee on Committees has made the following assignments: Remove Rep. Jack Coleman from State Government Committee and the Task Force on Elections and Constitutional Amendments; Appoint Representatives Jim Lovell, Bill Polston, to the Tobacco Task Force and remove Representative Jeff Hoover from that committee; Appoint Representative Chris Ratliff to Special Task Force on Energy; Appoint Representative John Arnold, Jr. as Vice Chairman to Labor and Industry Committee; Appoint Representatives Ruth Ann Palumbo, liaison, Rocky Adkins, Co-Chair, to Budget Review Subcommittee on Economic Development, Natural Resources and Tourism; Appoint Representative John Will Stacy, Co-Chair, to Budget Review Subcommittee on Education; Appoint Representative Mark Brown, Co-Chair, to Budget Review Subcommittee on General Government, Finance and Public Protection; Appoint Representative Paul Mason, Co-Chair, to Budget Review Subcommittee on Human Resources; Appoint Representative Frank Rasche, Co-Chair, to Budget Review Subcommittee on Justice, Corrections and Judiciary; Appoint Representative Pete Worthington, Co-Chair, to Budget Review Subcommittee on Transportation.

Motions, Petitions and Communications

Representative Burch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Burch moved the adoption of the following **Legislative Citation No. 1**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Gina Rigsby in recognition of her 38th Birthday The entire membership is pleased to join Representative Tom Burch in commending this outstanding secretary for the Health and Welfare Committee as she celebrates with those who simply could not function without her, another hallmark year of life. In extending our best wishes on the memorable occasion of this newlywed's birthday, this distinguished body wishes this avid dancer of "the train," skilled employee and valued colleague continued vitality, health and happiness. **Legislative Citation No. 1** was adopted without objection.

Representative Stumbo moved that the rules be suspended to waive the posting requirement on **HB 1, HB 2, HB 3, HB 4,** and **HB 5**. Agreed.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m. this evening for the Governor's address. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to grant floor privileges to the Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Dr. John Calloway, Presbytery of Louisville.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

Speaker Richards, President Saunders and members of the General Assembly; Chief Justice Stephens and members of the Judiciary; Lt. Governor Henry and members of the Executive Branch; my fellow Kentuckians. This body's been called into session many times to consider issues which were important, perhaps even vital, to the well-being of our people. But never have you been asked to consider a subject more important than the issue we're here to address again, the health of Kentucky's citizens. That's been the dominant issue of the past three regular sessions of the General Assembly and this'll be the second special session on the topic in the past four years. This session won't see the end of the subject because we're dealing with a question for which no one has an answer. That question is, "How can we provide quality healthcare for all Kentuckians at an affordable price?" The poorest Kentuckian has access to better healthcare than does the president of Russia! But it costs a lot of money. How can we make it available to more Kentuckians? Through Medicare, the federal government has substantially eased that burden for Americans over 65. Through Medicaid, we're providing quality healthcare for the poorest of our people. But what about the rest of the working poor? The middle class? Even people with substantial means? All could be wiped out by one catastrophic illness or accident. Only the most wealthy among us could sustain the cost of catastrophic illness and not face bankruptcy. When it comes to life, the most precious of all possessions, money cannot measure its value. Whether it's me, you, the child next door or the older person in a distant town, no one is willing to say that their life isn't worth what it's cost to save it. When we put a human face on any specific situation, not one person in this body, not the most diehard fiscal conservative, not the biggest proponent of cutting taxes, not the strongest opponent of health insurance reform is willing to look that person in the eye and say, "Your life isn't worth what it'd cost to save it." But at the same time, there's not a member of this body, no matter how liberal, no matter how compassionate, no matter how big a tax and spender, that would vote to impose on us the taxes it'd take to say yes to everyone. Our angels of mercy, the dedicated healthcare professionals who've given us the best healthcare system in the world, can perform miracles by the thousands, every day. We'd all like to be able to say yes to every person who could benefit from the treatment that these professionals can give, but we can't. Politicians can't be the ones who say no to individuals so we put that task off on the people delivering the service; the doctors, hospitals, insurance companies - anonymous faces who don't have to answer to the people at election time. Allow me to tell you the story of Alex Wiley. This little four year old boy from Benton, Kentucky is a living miracle today. He wasn't expected to live after he and his mother were involved in a head-on collision in Marshall County this past summer. In the accident, Alex's skull was crushed and his brain severely damaged. Doctors induced a coma for eight days that reduced the swelling of young Alex's brain but even the doctors didn't think the boy would come out of the coma. Alex proved them wrong. He's alert not with a strong appetite and has some limited movement but he faces a long road to recovery as therapists now have to teach him anew to walk, talk and function. Alex's parents don't have health insurance. A state medical card has paid for most of the bills. Several churches and community organizations have held fund-raisers to help out with the rest. Alex and his family are going to make it, but what about other children and other families in Kentucky who've faced or may face a similar situation? What about them?

That's the nature of the subject I've called you here to Frankfort to address. For almost a year now, members of the General Assembly have asked me to call this special session. Since the end of the '96 session, people have been working to try to find an answer. I don't have the answers but I'm willing to work with you to do the best that we can and I'll shoulder my part of the responsibility. During the four years preceding my administration, under the leadership of Governor Jones, you struggled with this question and you passed House Bill 250, the Health Reform Act of 1994. As noble as your goal was, as much as that effort was driven by the most sincere positive motivation, as hard as dedicated people labored to make it a success, it didn't work. Less than two years ago, when I assumed this office, we again labored to preserve what was good about Governor Jones' vision and adjusted what appeared to be the problems; and again, in spite of good intentions and noble purpose, it didn't work. That first effort was against the background of a national debate on America's healthcare delivery system and it appeared that Kentucky might be in the vanguard of a fundamental shift in national policy but the national policy shift never came. And so we were left in the forefront when no one else followed. In retrospect, our efforts in '96 were doomed to failure from the start because we were trying to preserve an ideal in a nation which was not yet ready to embrace it. That, in the big picture, is the situation we face. No one in this country has figured out how to make healthcare available to all our people. We're here to address how we deal with the catastrophic financial burden that serious illness can bring. In this country we've generally dealt with the potential for catastrophic financial loss with either government action or private insurance or, in many cases, a combination of the two. Being a strong proponent of the free-market system. I think most of us would prefer to deal with potential catastrophic-loss situations with insurance. The nature of insurance is that we voluntarily agree to pool our resources in limited and known quantities in advance to share the cost of a catastrophic even which we know could come our way. Fire, automobile accidents or other liabilities to third parties are the kinds of insurance that work well. In these areas insurance companies estimate our individual probability of incurring loss and risk rate us. They can risk rate us as high as they wish. If the cost is too high, we can go uninsured and take the risk ourselves. But risking our health is different because health means live, something none of us can equate to a dollar value.

Few Kentuckians could along afford the cost of long-term and expensive healthcare services. Most Kentuckians want to join with their fellow citizens to share the risk through insurance. That is the hear of the subject we'll debate during the next several days.

The primary elements of House Bill 250 passed in '94, or at least the elements of it which survived the 1996 session, are; guaranteed renewability, portability, and issue all without regard to the current status of a person's health. Let me go into those subjects in a little more detail. Guaranteed renewability seems to me to be an issue of basic fairness. It means that your insurance company must renew your insurance every year and they can't cancel your policy or raise the price just because you've become ill. After all, you may've been paying your insurance premium for years and never used it one time. In fact most of us have paid for many kinds of insurance and never filed a claim. That's the purpose of insurance. Most of us never want to file a claim. We understand that our money goes to pay the cost incurred by our neighbors who were less fortunate than us. What makes health insurance different is that the losses can occur over a period of years and yet health insurance policies are renewed on a yearly basis.

If the insurance company knows that the cost of your healthcare in the future is going to be more than the premiums you're currently paying and if their primary concern is their profits, they can stop their losses by canceling your policy. I understand profits and losses but at the same time, it's hard for me to understand why an insurance company should be able to cancel my policy or raise my premium just because I got sick, when I've been paying premiums for years and never filed a claim. That's why I buy insurance, to use it if I need it. But we need to remember that before the 1994 Healthcare Act passed in Kentucky that's exactly what could happen to you and it was happening to many Kentuckians every year. One of the major advantages of the Healthcare Act passed in '94 was the guarantee you could renew your health insurance. Guaranteed portability means that you can't be denied coverage for a pre-existing condition when you change insurance companies. If, for example, you change jobs and therefore your insurance coverage, the waiting period for pre-existing conditions would not apply to your new policy. Many people had been locked into jobs because they had health insurance where they worked but were afraid they would lose it if they changed jobs. That's guaranteed portability. Guaranteed issue means that a person can buy insurance no matter how ill they are even if they've never had insurance before. That's a summary of the fundamental policy changes adopted in 1994 which are still in effect today. The essence of that policy is that the price or availability of health insurance will not be affected by the status of a person's health, gender or occupation. The only factors which can be considered when determining the price you're to be charged for your health insurance are your age, the size of the family unit and the region of the state in which you live. That's called modified community rating. That's still in effect today in Kentucky. The obvious effect of these changes was that older, sicker people paid less and younger, healthier people paid more. Since any insurer had to sell insurance to any Kentucky resident who wanted it no matter how sick they already were, the entire cost of the system went up as very sick people got insurance for the first time. Add to this the normal increase in the cost of health insurance caused by inflation and the expensive new treatments which come along every year and we had a situation where some people's insurance went up a little bit, some people's insurance went up a whole lot and very few people's insurance went down any. When you add to that the requirements that only five standard plans could be purchased, that providers had to change a lot of the ways they do business, and insurance companies were telling everybody that it was the government's fault, the reaction was swift and furious. The level of feelings on the issue in the early days of the 1996 session was intense. People wanted relief but they still wanted to keep modified community rating. They still didn't think that insurance companies should be able to cancel their insurance or jack up the price just because they got sick. In '96 we made some changes which helped but we still kept that fundamental policy decision to not let your health status affect the price of your health insurance. We kept modified community rating. The '96 changes didn't help enough. Today, a year and a half later, the demand of the people is that we do something else to control the cost of health insurance and increase the choice to most Kentuckians. There are few things we can do. There is no silver bullet. One of the things we can do is restore competition to the market. One of the undeniable effects of our laws has been to cause 45 insurance companies to quit selling health insurance in the Commonwealth. we only have one private company, Anthem Blue Cross-Blue Shield, selling individual policies in the state. Now some people say that the companies that left don't make any difference, they only represented half the individual market. Well, that half represented 75,000 Kentuckians. I think that does make a difference. In order to get some choice and competition in the market, I directed Kentucky Kare, a state-owned company, to sell individual policies to all Kentuckians. Kentucky Kare, whose purpose is to provide low-cost health insurance to Kentucky State Government employees and retirees, is now losing about $1.5 million a month. Kentucky Kare is going to have to raise its rates 30 percent. If we're going to improve the situation, I believe, and I think most of the members of the legislature believe, that we must restore competition to the market. We must have laws which will induce at least some of the companies to come back to offer our people health insurance. In the long run, the free market is the consumer's best chance to get a quality product at a fair price. To get a competitive market, we simply must change our system of modified community rating. But we don't have to abandon it altogether. Most experts in the field believe if we allow insurance companies to gradually increase rates over time when a person's health deteriorates, insurance companies can stay in Kentucky. Over these many months of debate, a general consensus has evolved that insurers can vary rates for individuals, plus or minus 35 percent, based on health. That's the figure that's been reluctantly agreed to by almost all parties involved in the debate, supporters of modified community rating and its opponents. Moreover, a general consensus has been formed that a person who's never had health insurance can purchase it for 50 percent more than the same policy would cost a person with normal health. With these two changes, we'll be able to retain the four basic elements of the 1994 law - guaranteed renewability, guaranteed portability, guaranteed issue, all for people with pre-existing health conditions.

To be sure, these changes in health condition can cause your health insurance to cost more, but no more than 35 percent from the average, and you'll still be able to keep the same kind of insurance you have today. If you don't have insurance now, you'll still be able to buy it with some limitations. There've been two proposals advanced that provide for persons with chronic pre-existing conditions, who currently don't have health insurance, to buy insurance. One choice is called pay or play where an insurance company can either choose to "play" - that is to sell insurance to all customers up to their fair share of the market or "pay" - that is to reject anyone who has a pre-existing health condition and pay the losses of the companies who do insure them. The other option is a high-risk pool. Under this proposal, sick people who can't get any insurer to sell them insurance can buy it from the state-run, high-risk pool and the extra cost of paying for their health care would be paid by all insurance companies selling health insurance in Kentucky. On the face of it, I, and many others in the General Assembly, would support the concept of pay or play over a high-risk pool. But the pay or play system has its problems. Nobody knows exactly how to make it work. The proposed "pay or play" system specifically requires the Department of Insurance to write 20 administrative regulations and contains 13 other provisions that may require more regulations. The department questions its ability to administer a program which is so vague. Only one state, New Jersey, is trying it, and with mixed results. And it's doubtful that pay or play system would restore competition o the market. The best option to restore competition in Kentucky is a high risk plan. T his is the method used by twenty-seven states to provide insurance coverage to high-risk individuals.

In my opinion, most of the General Assembly believes that we in Kentucky have experimented enough for the time being. The time has come to stabilize the market, restore competition, and try again later to adjust our program after we've learned a little more about how we can provide more of our people with affordable health insurance. That's one of the reasons I'm supporting the proposal of Senator Tim Shaughnessy. There are some things about it I don't like. On e is that it uses General Fund revenue to subsidize private health insurance through the high-risk pool. This government-paid cost of healthcare is how we got both Medicaid and Medicare, both programs I support for our national government, but a path our state government should never take alone. However, our health insurance market is in such disarray that I've compromised and reluctantly agreed with the supporters of the Shaughnessy proposal that a very modest and limited General Fund appropriation of $5 million a year for 3 years is essential to get this new program started without undue hardship on those who need health insurance the most. If we pass a law to address this subject during the next several days, we're all going to have to compromise. We're all going to have to accept some things we don't agree with. I've already done that and most of the people who're supporting the Shaughnessy proposal have done that. It's already a bipartisan proposal that has had input from both the Democrat and Republican leaders of both houses as well as my administration thorough the Department of Insurance. I must pause to acknowledge the work done by the Department of Insurance and its Commissioner, George Nichols. I know of no one engaged in this debate who doesn't respect Commissioner Nichols and his staff for their knowledge, sincerity, effort and dedication to the welfare of the Kentucky health insurance consumers. Commissioner Nichols stand up and take a bow, along with the rest of your staff here tonight. You've worked hard on this subject for almost two years. You've worked late at night and on weekends. You have some hard days ahead of you. You've got a very difficult job to do after the General Assembly acts. But I know you'll continue to serve above and beyond the call of duty, just like you've done these past trying and tiring 21 months. Thank you. Even though we must leave the day-to-day administration of this law to the professionals, we alone can decide the fundamental issues of public policy. We alone are the elected representatives of the people. We alone are at the crossroads and in the crosshairs of the public debate. We alone must act. I commend Senator Shaughnessy for his untiring effort to develop an effective compromise which I believe is the best we can do right now. I also want to thank Representatives Bob DeWeese and Bob Damron for their bipartisan proposal from the House, many elements of which have been incorporated into the Shaughnessy proposal. Senator Kelly and his staff made valuable contributions to the Shaughnessy proposal. The majority of the combined bipartisan leadership of both the House and the Senate have had input which was taken into account by Senator Shaughnessy and Senator Kelly as they prepared their draft. And let us keep in mind that the proposal introduced in the Senate today is just the starting point. I expect that the public debate which the legislative process demands may reveal weaknesses which can be corrected. I'm willing to consider changes for the better and I certainly expect to take into account, all proposed changes in the light of what is best for the consumers. But Kentuckians must realize that your elected leaders can't do the impossible. We can't satisfy every individual situation. We can only serve you with honesty, integrity, and diligence. I sincerely believe that the vast majority of these members of your Kentucky General Assembly meet that test. I don't agree with them on every subject as they don't agree with me, but I respect them because they represent you, they were elected by you. And they are doing their best to serve you just as I'm doing as your governor.

I urge all leaders to make their first priority the Kentuckians who depend on health insurance to save their lives and protect them from bankrupting medical bills. Now is the time for leadership. Now is the time for compromise. Now is the time for statesmanship.

Now is the time to act! Thank you. Good night. God bless you.

Representative Stumbo moved that the Joint Session be dissolved. Agreed.

Speaker Richards resumed the Chair.

Announcements

The following meeting was announced: Appropriations and Revenue, 10:00 a.m., October 1, 1997, Room 149.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. on Wednesday, October 1, 1997.

On the roll call the vote was **Yeas 75**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Bruce, De. Butler, Callahan, Cave, L. Clark, J. Clarke, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hoover, Horlander, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Maricle, Mason, McKee, Miniard, Moberly, Napier, Newsome, Nunn, Palumbo, Polston, Pope, Richards, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Yonts, Zimmerman. **Nays 4**--Crall, Lile, Rader, Stewart.

WEDNESDAY, OCTOBER 1, 1997

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hilton, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Brown, Deskins, Geveden, Hatcher, Lindsay, Miniard, Murgatroyd, Wilkey, Worthington, and Yonts.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of September 30, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 5, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jeff Green.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT making an appropriation to the Legislative Research Commission for expenses incurred in connection with the Second Extraordinary Session of 1997 of the General Assembly, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be appropriated from the General Fund, for payment of salaries and other expenses of the Second Extraordinary Session of 1997 of the General Assembly, the sum of $30,800 per calendar day during the Second Extraordinary Session of 1997.

Section 2. That there be appropriated from the General Fund, for payment of expenses incurred during the Second Extraordinary Session of 1997 to the Legislative Research Commission, the sum of $3,000 per calendar day during the Second Extraordinary Session of 1997.

Section 3. That there be transferred from the Monthly Expenses of Legislators' Account to the Legislative Session Fund the amount of $4,500 per calendar day of the Second Extraordinary Session of 1997 to be used for necessary expenses during the extraordinary session.

Section 4. That there be appropriated from the General Fund to the Legislative Session Fund the sum of $15,000 to pay the cost of printing and binding the Acts and Journals of the Second Extraordinary Session of 1997.

Section 5. That there be appropriated from the General Fund to the Legislative Session Fund the sum of $44,000 to pay the cost of expert testimony, legislators' travel, and stationery allowances for the Second Extraordinary Session of 1997.

Section 6. Notwithstanding the provisions of KRS 6.230 to the contrary, pages shall receive a per diem of $25 each.

Section 7. Whereas the General Assembly is now in session, and it is necessary that funds be made available immediately, an emergency is declared to exist, and this Act shall become effective upon it passage and approval by the Governor or upon its otherwise becoming a law and shall be retroactive to include all calendar days of the Second Extraordinary Session of 1997, beginning September 30, 1997.

Motions, Petitions and Communications

Representative Adkins moved the adoption of the following **Legislative Citation No. 3**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Reba

McQueary and extends our sincerest expressions of sympathy to her loving husband, Roy McQueary; her devoted son, Jeffrey McQueary; her beloved parents, O. M. Blankenship and Estella Hail Blankenship and her cherished sister, Linda Blankenship. This outstanding native of Green County brought to her various positions in state government an astute political sensibility and a unique talent for communication. Reba McQueary worked as the director of the Division of Development Finance in the Kentucky Department of Local Government, served as the former commissioner of the Department of Rural and Municipal Aid, was the first woman to serve as commissioner in the Transportation Cabinet and was a former aide to then-Lt. Governor Brereton Jones. She will long be remembered and cherished by those whose fortune it was to know her. The House of Representatives joins Representative Rocky Adkins this day in memory of this outstanding Kentucky citizen. **Legislative Citation No. 3** was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 3** --J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Moberly, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Zimmerman.

Representative Gooch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 2**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Margaret F. Brown. The House of Representatives joins Representative Jim Gooch, Jr. in expressing its deepest sympathy to all who share in the loss on the passing of this outstanding lady, beloved wife of Charles D. Brown, devoted mother of Charlotte Little, Connie Brown and Carroll Brown, cherished grandmother of Laura Johnson, Amy May and Ashley Overby, great-grandmother of Kelsey May and sister of Opal Voelpel. This remarkable woman was a member of the First Cumberland Presbyterian Church and a dedicated member of the Eastern Star #304 for forty-six years. We remember her on this day for her spirit and warmth and offer our sincere condolences to her family and friends. **Legislative Citation No. 2** was adopted without objection.

Representative Nesler moved the adoption of the following **HR 5**:

HR 5, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jeff Green.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, Jeff Green.

WHEREAS, Jeff Green, a native of Hickman, Fulton County, Kentucky, was born on June 15, 1954, and departed this life on September 5, 1997; and

WHEREAS, Jeff Green was the loving son of Cora Lee Green and was preceded in death by his father, Roland Green; and

WHEREAS, Jeff Green was the devoted husband of Sharon McDonald Green; and he was the proud father of two sons, Tyler Green and Alex Green; and

WHEREAS, Jeff Green earned his B.A. degree from Murray State University; and he earned his J.D. degree from Chase College of Law; and

WHEREAS, Jeff Green was a member of the Graves County Bar Association, the Kentucky Bar Association, and the American Bar Association; he was Graves County Assistant Commonwealth's Attorney from 1984-92; he was president of Murray State University Alumni Association from 1990-91; and he was a graduate of the Leadership Kentucky class of 1991; and

WHEREAS, Jeff Green served his constituents from the First Senatorial District with pride from 1992 until 1997 in serving as chairman and vice chairman of the Capital Projects Bond and Oversight Committee, where he demonstrated his leadership abilities and skillfully handled the complex and sometimes controversial issues; he served as chairman of the Agriculture and Natural Resources Committee; he served on the Economic Development and Tourism Committee and on the Judiciary Committee; and he was co-chairman of the Task Force on Domestic Violence, where he was instrumental in establishing a statewide system to notify victims when their abusers are released from jail; and

WHEREAS, when this honorable body reflects upon the memory of Jeff Green, it is with fond recollection that we remember him, not only for his many legislative accomplishments and the friendships he made and sustained through the years, but also for his understanding of the common man, which he demonstrated daily; and

WHEREAS, all who knew and admired Jeff Green will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the untimely passing of Jeff Green, and extends to his family its most heartfelt sympathy.

Section 2. A life spent worthily should be measured by deeds, not years, and through his compassion, self-sacrifice, enthusiasm and genuine love and concern for his fellow man, Jeff Green is worthy of the highest commendation.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Jeff Green.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Sharon McDonald Green, 480 Lakeview, Mayfield, Kentucky 42066.

There being no objection **HR 5** was adopted.

Roll call to show co-sponsors to **HR 5**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Crall, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Marzian, Mason, McKee, Moberly, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Zimmerman.

Representative Bruce moved the adoption of the following **Legislative Citation No. 4**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Myrtle Hopkins upon her retirement from the State Board of Elections. The entire membership extends its very best wishes to this outstanding public servant. Her twenty-four years of service as Assistant Director to the State Board of Elections and her years of service to the Clay County Clerk's Office, both during and after the Nunn administration, are marked by dedicated performance and an exemplary work ethic. This prestigious body is indeed honored to join Representative James E. Bruce in extending heartiest congratulations on this memorable occasion and expressing the hope for her continued good fortune in all future endeavors. **Legislative Citation No. 4** was adopted without objection.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., October 2, 1997.

On the roll call the vote was **Yeas 71**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Baugh, Bowling, Bratcher, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Haydon, Hogancamp, Hoover, Jenkins, Johns, Jordan, Kerr, Lee, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Moberly, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Stein, Stine, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver. **Nays 7**--Allen, Crall, Lile, Nunn, Riggs, Stewart, Zimmerman.

The motion to adjourn was adopted.

THURSDAY, OCTOBER 2, 1997

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jay Ayers, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Brown, Crenshaw, Crimm, Deskins, Heleringer, Lindsay, Lovell, Murgatroyd, Reinhardt, Riggs, Stein, and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of October 1, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative McKee moved that the rules be suspended to grant floor privileges to his brother. Agreed.

Calendar

HB 1 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 1** has been posted for passage in the Orders of the Day for October 6, 1997.

Motions, Petitions, and Communications

Representative Barrows moved the adoption of the following **Legislative Citation No. 5**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Representative Rob Wilkey upon being featured in an article recognizing young leaders of the Commonwealth, titled "20 Under 40," recently published in the Park City Daily News. Representative Wilkey grew up in a political family where both his parents were active in the Democratic party, contributing to his early decision while a student at Western Kentucky University to attend law school and enter the public arena. Nearly a decade later, after chairing the local party from 1991 to 1997, Representative Wilkey is considered one of the next generation of people to make a difference in south central Kentucky. This august body joins Speaker of the House Jody Richards in recognizing Representative Rob Wilkey for his fine contributions to the political process and in challenging him to carry high the torch of genuine statesmanship. **Legislative Citation No. 5** was adopted without objection.

Announcements

The following meetings were announced:

Subcommittee on Post Secondary Education, upon adjournment.

Appropriations and Revenue, upon adjournment, Room 149.

The following meeting was cancelled:

Minority Caucus

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, October 6, 1997.

On the roll call the vote was **Yeas 80**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Bruce, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Long, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Napier, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riner, Scott, Siler, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman. **Nays 3**--Crall, Lile, Stewart.

The motion to adjourn was adopted.

MONDAY, OCTOBER 6, 1997

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Chuck Ellestad, Church of the Ascension, Frankfort

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Baugh, Bowling, Colter, Cox, Crall, Deskins, Hatcher, Hoover, Wilkey, and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of October 2, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Orders of the Day

HB 1 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 1** be passed.

On the roll call the vote was: Yeas 85 , Nays 1 (See October 6 , 1997 roll call on **HB 1** - Appendix)

HB 1 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 1** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Scott moved the adoption of the following **Legislative Citation No. 6.** Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Pauline Burdette on the occasion of her 90th Birthday. The entire membership is pleased to join Representative William Scott in honoring Pauline Burdette, an exemplary Kentucky educator who devoted her life to educating, counseling and caring for the children of this great Commonwealth. A 1925 graduate of Lebanon High School, Pauline Burdette received her associate degree from Campbellsville Junior College in 1927 and her B.A. in elementary education from Western Kentucky State College in 1932. She began teaching at Highview School, followed by assignments at Spalding School and Lebanon Junior High School. She served for twenty years as principal of Lebanon Elementary School. The final decade of her educational career was spent as a supervisor for the Marion County Board of Education prior to her retirement in 1974. Pauline Burdette is an educator who was loved by those students fortunate to be entrusted to her care, one whose kindness will not be soon forgotten. Very best wishes are extended to this outstanding Kentucky citizen as we join in the celebration of her life. **Legislative Citation No. 6** was adopted without objection.

Representative Ballard moved the adoption of the following **Legislative Citation No. 8**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mark Keelin for obtaining the summit of Eagle Scout, that prestigious honor within the Scouting Program. For it is widely known that involvement in scouting is a commendable activity and instills those exceptional qualities that creates leaders. Success, productivity, affluence and respect will surely come to said recipient by utilizing those remarkable scouting attributes. The Kentucky House of Representatives joins State Representative Eddie Ballard in recognizing the phenomenal achievements of Mark Keelin and offers the best possible wishes in any future endeavors. **Legislative Citation No. 8** was adopted without objection.

Announcements

The following meetings were announced:

Transportation, upon adjournment, October 7, 1997

Appropriations and Revenue, upon adjournment, October 7, 1997

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., October 7, 1997.

On the roll call the vote was **Yeas 78**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Brandstetter, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Geveden, Gooch, D. Graham, G. Graham, Gray, Haydon, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Long, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Vincent, Walton, Wayne, Yonts, Zimmerman. **Nays 2**--Lile, Stewart.

The motion to adjourn was adopted.

TUESDAY, OCTOBER 7, 1997

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cave, Crall, Hatcher, Heleringer, Stein, and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of October 6, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Wilkey moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Wilkey moved the adoption of the following **Legislative Citation No. 10**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Ruth H. Wilkey upon her 70th Birthday. In celebration of this memorable event the entire membership joins Representative Rob Wilkey in commending Ruth Wilkey for a life lived to the fullest and for the vitality of heart which has brought her thus far. This distinguished body hereby extends best wishes on this meaningful occasion of her 70th birthday. **Legislative Citation No. 10** was adopted without objection.

Representative Sims moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Sims moved the adoption of the following **Legislative Citation No. 12**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Andrew Bunnell. The House of Representatives joins Representative Dottie Sims in expressing its deepest sympathy to all who share in the loss through the tragic and untimely passing of this outstanding young Kentuckian, beloved son of Christa and Jack Bunnell; cherished brother of John, Elisabeth and Elaine; and devoted uncle to Caleb, Alex and Rachel. Andrew was attending law school at the University of Kentucky, having graduated from Hart County High School in 1992. We remember him today with gratitude for his remarkable presence, with sorrow for the brevity of his journey on this earth and with sincere and heartfelt condolences to his family and friends. **Legislative Citation No. 12** was adopted without objection.

Representative Colter moved that the rules be suspended to introduce guests. Agreed.

Representative Baugh moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 11**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of George Frederick Meyer, Jr. The House of Representatives joins Representative Sheldon Baugh in expressing its deepest sympathy to all who share in the loss on the passing of this outstanding gentleman, born in Minneapolis Minnesota, who adopted Kentucky as his home, beloved husband of Ruth Carol Main Meyer, loving father of six sons and a daughter, and cherished grandfather of ten grandchildren. George Frederick Meyer, Jr. was a Mining Engineer, farmer and agriculture teacher. He was a valued member of the First Baptist Church, a trustee at United Methodist Temple, past president of the Rotary Club, member of the Gideons and the Logan County Chamber of Commerce. We remember his remarkable contributions and offer our sincere condolences to those whose fortune it was to share his life. **Legislative Citation No. 11** was adopted without objection.

Representative Curd moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Curd moved the adoption of the following **Legislative Citation No. 9**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Murray State University on the splendid, consequential event of its seventy-fifth anniversary. Whereas, Murray State University has an unblemished tradition of higher learning in the Commonwealth of Kentucky; and Whereas, Murray State University has a sterling academic reputation that well qualifies them as meritorious educators of the twenty-first century; and, Whereas, Murray State University is the epitome of classic, exceptional education on the college level under which a phenomenal amount of students have flourished and succeeded as contributing citizens. Therefore, the Kentucky House of Representatives joins State Representative Freed Curd in celebrating the magnificent heritage of this prestigious institution of higher learning and offers encouragement for continued phenomenal prosperity. **Legislative Citation No. 9** was adopted without objection.

Introduction of Resolutions

HCR 6, by Representative Stumbo: A CONCURRENT RESOLUTION concerning international negotiations on global climate change.

Motions, Petitions and Communications

Representative Gooch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 7**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the untimely death of Brice Chad Young. Members of the House of Representatives do honor said individual and his devastated family, whose loss is irreplaceable. This prestigious body shares in this phenomenal tragedy and offers comfort in the knowledge that Brice Chad Young is serene beyond the cares and worries of this world. This prestigious body doth hereby adjourn this sixth day of October, nineteen hundred and ninety-seven in memory of the blithe young child whose loving smile, and tremendous potential will forever be recorded in a mother's heart. **Legislative Citation No. 7** was adopted without objection.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 7, by Representative Deskins: A RESOLUTION concerning international negotiations on global climate change.

Representative Deskins moved the adoption of **HR 7**.

Representative Deskins moved that the motion to adopt **HR 7** be withdrawn. Agreed.

The following members filed requests to have their names added as co-sponsor of a Resolution under rules previously suspended: **HR 7**, Representative P. Clark, Yonts.

Announcements

The following meeting was canceled:

Appropriations and Revenue, October 7, 1997

The following meetings were announced:

Transportation, upon adjournment, October 7, 1997

Agriculture and Natural Resources, October 8, 1997, 12:30 p.m., Room 149

Appropriations and Revenue, October 8, 1997, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., October 8, 1997.

On the roll call the vote was **Yeas 84**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman. **Nays 5**--Allen, Bratcher, Lile, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, OCTOBER 8, 1997

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bowling, Crenshaw, Damron, Deskins, Heleringer, Lindsay, Newsome, Stein, Walton, and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of October 7, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 1**. (Time: 9:05 a.m.)

Recess

Representative Atkins moved to suspend the rules for the House to recess for a Committee on Committees meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Appropriations and Revenue: **SB 1**

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Appropriations and Revenue meeting in the Speaker's Office and to waive the posting requirement on **SB 1**. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on Appropriations and Revenue reported **SB 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 1, AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws.

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or

small group, or employer as defined in Section 10 of this Act, with similar case characteristics for health benefit plans with the same or similar coverage.

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3).

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33).

(5) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169); or

(c) 42 U.S.C. sec. 300bb.

(6) "Creditable coverage" means as defined in 42 U.S.C. 300gg(c)(1).

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C.A. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C.A. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a), (b), and (c) in Section 5 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(8) "Employer-organized association" means any of the following:

(a) Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled; or

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

(c) Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

No employer-organized association shall be treated as an association, small group, or large group under this subtitle.

(9) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32).

(10) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or any health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing

practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A.

(12) "Health status" means an individual's mental and physical condition, using the following factors: medical condition, claims experience, medical history, and health service utilization.

(13) "High-cost condition" means a condition covered by a health insurance policy that has been determined by the commissioner to constitute a high-cost condition.

(14) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(15) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan.

(16) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(17) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group or association with fifty-one (51) or more eligible members.

(18) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(19) "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(20) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(21) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310.

(22) "Purchaser" means an individual, an organization, an employer, an association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(23) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals.

(24) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees.

(25) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an

employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year.

(26) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each insurer that offers health benefit plan coverage for small groups shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every individual eligible for the coverage who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health benefit plan and shall comply with the provisions of 42 U.S.C. secs. 300gg-1 and 300gg-11.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group health plans and health insurers offering group health benefit plan coverage in the Commonwealth shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for pre-existing conditions exclusions, including crediting previous coverage, certification of coverage, special enrollment periods, and use of affiliation periods.

(2) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing exclusions as to any eligible individual.

(2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage. Pregnancy may be considered to be a pre-existing condition.

(3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments.

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The insured has engaged in intentional and abusive noncompliance with health benefit plan provisions.

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section.

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer.

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, by administrative regulations, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after December 31, 1997. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially the standard health benefit plan shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars ($1,000,000) per covered individual. The maximum lifetime limit under this subsection shall not be altered by the commissioner, and no actuarial equivalent benefit shall be submitted by the commissioner.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point of service type; and

(d) A preferred provider organization type.

(3) Any health insurer who elects to offer health benefit plans in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after December 31, 1997, offer and actively market the standard health benefit plan in the individual or small group markets in each and every form of coverage which the health insurer offers to sell.

(4) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be

required to provide under Sections 2 to 5 of this Act.

(5) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212 in medically underserved areas designated by the Cabinet for Human Resources, that health insurer shall pay the plan's established rate for those services to the health department.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health benefit plan in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant;

2. A statement of the exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for one (1) year, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers to a natural person who is a resident of the Commonwealth who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children, or an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision and a statement setting forth the specific medical and scientific reasons for refusing to issue a plan.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act for approval to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 8. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers***, shall submit a copy of the filing to the Attorney General,*** and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed[~~ with the commissioner~~]. The insurer may submit new filings from time to time as it deems proper[~~, except as provided in subsection (5) of this section~~].

(2) (a) ***Within thirty (30) days after the filing, the commissioner shall enter an order approving or disapproving the filing, except***[~~Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective.~~] the period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that[~~ it needs~~] the additional time ***is necessary*** for consideration of the filing.

(b) At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.

(c)[~~(b)~~]The commissioner may ***issue an order scheduling***[~~hold~~] a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

[~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory;[~~ and~~]

(f) ***The effect on the rates of any assessment made under Section 27 of this Act; and***

(g) Other factors as deemed relevant by the commissioner.

(4) Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General shall participate as a health insurance consumer intervenor and be considered a party to the hearing.

(5) ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.***

(6) Notwithstanding subsection (5) of this section, any health benefit plan in effect on the effective date of this Act may, on any renewal date before September 1, 1998, be renewed for a period less than twelve (12) months if both the policyholder and the insurer agree[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase~~].

(7)[~~(6)~~] At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund to policyholders, enrollees, and subscribers if the commissioner determines that the benefits are no longer reasonable in relation to the premiums or fees charged.

(8) The commissioner shall hold a hearing upon written request by the Attorney General. The request shall include the

specific reason for the requested hearing, the factors in subsection (3) of this section that the request is based on, and documentation from the rate filing supporting the request.

(9) Subsection (2)(a) and (b) of this section shall not apply if the filing is accompanied by a minimum loss ratio guarantee. Insurers may use the premium rates contained in a filing accompanied by a minimum loss ratio guarantee upon filing with the department. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio. Once an insurer elects to use the filing procedure in this section for a policy form or forms, the insurer shall not use a filing of premium rates which does not provide a minimum guarantee loss ratio for that policy form or forms.

(a) The minimum loss ratio guarantee shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this section;

2. Detailed experience information concerning the policy form;

3. A step-by-step description of the process used to develop the experience loss ratio;

4. A guarantee of a specific minimum loss ratio, which shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Sixty-five percent (65%) for policies issued to individuals;

b. Sixty-five percent (65%) for policies issued to groups of two (2) to ten (10) individual members or employees; and

c. Seventy percent (70%) for policies issued to groups of eleven (11) to fifty (50) individual members or employees;

5. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 4. of this paragraph; and

6. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other creditability factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner and the Attorney General not later than one hundred twenty (120) days after the end of the year at issue.

(c) The insurer shall refund premiums in the amount necessary to bring the actual aggregate loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of December of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky comprehensive health insurance plan created in Section 14 of this Act.

(10)[~~(7)~~] ***Each insurer paying a risk assessment under Section 27 of this Act may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.***

(11) The commissioner may by administrative regulation prescribe any additional information ***related to rates, fees, dues and other charges as they relate to the factors set out in subsection (3) of this section*** it deems ***necessary and*** relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]

SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after the effective date of this Act shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ten percent (10%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until the effective date of this Act for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on each of the first two (2) renewal dates after the effective date of this Act. Notwithstanding subsection (1) of this section, the plan established under Section 14 of this Act shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available. For the purposes of this subparagraph, the premium loss incurred for each policy renewal period shall be determined as being the premium necessary to provide for the excess claims costs of the high-risk individuals. The excess claims costs equals the excess of the average claims costs for high-risk individuals, less the average claims cost of all other individuals with health benefit plans issued during the period from July 15, 1995, until the effective date of this Act, multiplied by the number of high-risk individuals;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after the effective date of this Act; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after the effective date of this Act and thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, health status, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness

for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than twenty percent (20%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(8) Adjustments in rates for claims experience, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network, if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of individuals with high-cost conditions enrolled in its plans to develop the insurer's index rate for its individual policies including the ability to establish a separate class of business.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in Section 1 of this Act.

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year.

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled; or

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

(d) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations.

(e) "Index rate" has the meaning provided in Section 1 of this Act.

(f) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate.

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period may not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, health status, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network result in measurable differences in claims costs.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after January 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than December 31, 1998, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on January 1, 1999.

(2) No health benefit plans shall be issued, delivered, or renewed under the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 until the end of the contract or policy period or until the end of December 31, 1998, whichever comes first. The provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 shall become null and void on January 1, 1999.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A health insurer, including the plan created in Section 14 of this Act, shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and is willing to meet the terms and conditions for participation established by the health insurer.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 13 to 27 of this Act, unless the context requires otherwise:

(1) "Agent" means any person who is licensed or authorized to sell health insurance in this Commonwealth.

(2) "Board" means the board of directors of the Kentucky comprehensive health insurance plan created in Section 14 of this Act.

(3) "Commissioner" means the commissioner of the Department of Insurance.

(4) "Health insurance" means any hospital or medical expense incurred policy or nonprofit health care services plan contract, whether sold as an individual or group policy. The term does not include any policy covering short-term accidents only, a fixed-indemnity policy, a limited benefit policy, medical payment or personal injury coverage in a motor vehicle policy, coverage issued as a supplement to liability insurance, a disability policy, or workers' compensation.

(5) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act (Pub. L. No. 74-271, 42 U.S.C. sec. 1395, et seq., as amended).

(6) "Physician" means a physician, osteopath, podiatrist, or, for purposes of oral surgery only, a dental surgeon, or, for purposes of prescription of medications only, an optometrist, each duly licensed in this Commonwealth.

(7) "Plan" means the Kentucky comprehensive health insurance plan.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky comprehensive health insurance plan. The plan shall operate independently of the department, but shall be attached to the Department of Insurance for administrative purposes. All insurers, as a condition of doing business in Kentucky, shall be members of the plan.

(2) (a) The plan shall operate under the supervision and approval of the board. The board shall consist of the commissioner or the commissioner's designee, who shall serve as an ex officio member of the board, and nine (9) members appointed by the Governor. Two (2) board members shall be individuals, or the parent, spouse, or relative of individuals, reasonably expected to qualify for coverage by the plan. Two (2) board members shall be representatives of insurers. One (1) board member shall be a licensed insurance agent. One (1) board member shall be a state employee. One (1) board member shall be an employer. One (1) board member shall be a hospital administrator. One (1) board member shall be a licensed physician. The commissioner shall be a nonvoting member. The Governor shall appoint one (1) of the members to serve as the initial chair for a term of one (1) year. Subsequent chairs shall be elected by board members from board membership to serve a term of one (1) year.

(b) The initial board members shall be appointed as follows: three (3) of the members to serve a term of two (2) years; three (3) of the members to serve a term of three (3) years; and three (3) of the members to serve a term of four (4) years. Subsequent board members shall serve for a term of three (3) years. A board member's term shall continue until the member's successor is appointed.

(c) Vacancies in the board shall be filled by the Governor. Board members may be removed by the Governor for cause.

(d) Board members shall not be compensated in their capacity as board members but shall be reimbursed for reasonable expenses incurred in the necessary performance of their duties.

(3) The board shall adopt and submit its articles, bylaws, and operating rules to the commissioner of insurance for approval. If the board fails to adopt suitable articles, bylaws, and operating rules within ninety (90) days after the appointment of the board, the commissioner of insurance shall promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate the provisions of this subtitle; and the administrative regulations shall remain in effect until superseded by articles, bylaws, and operating procedures submitted by the board and approved by the commissioner of insurance.

(4) The board shall employ an executive director, a chief financial officer, an internal auditor, and other support staff necessary to oversee the fiscal operation of the plan and to monitor the administering insurer. The authority of the executive director and the chief financial officer to transfer and expend funds of the plan shall be limited by the bylaws. The internal auditor and staff of the internal auditor shall report directly to the board.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every insurer shall participate in the plan.

(2) The commissioner shall, by administrative regulation, establish a list of high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

(3) An individual covered by a health benefit plan offered by the plan who has a high-cost condition as defined in Section 1 of this Act, and whose claims for the high-cost condition have not exceeded premiums paid for three (3) years, shall be notified by the plan in the last six (6) months of the third year of plan participation that the individual may be able to purchase health insurance outside the plan. The notice shall state that neither the notice nor the individual's actions to purchase health insurance outside the plan shall affect the individual's eligibility for plan coverage.

(4) Health benefit plans available in accordance with Sections 13 to 26 of this Act shall be available for sale as soon as practicable, but no later than six (6) months after the effective date of this section, and shall be available on a guaranteed-issue basis to individuals eligible for plan coverage.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any individual who is an eligible individual as defined in Section 1 of this Act is eligible for coverage under the plan.

(2) Any individual who is not an eligible individual as defined in Section 1 of this Act who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for plan coverage may apply for coverage under the plan. No person who is not an eligible individual under Section 1 of this Act shall obtain

coverage under the plan unless the person has been rejected by at least two (2) insurers for coverage substantially similar to the plan coverage, or at least two (2) insurers have offered coverage substantially similar to the plan coverage at a rate greater than the plan rate, or the person has a high-cost condition; and no person shall obtain coverage under the plan if the person has, on the date of issue of coverage under the plan, equivalent coverage under another contract or policy.

(3) (a) No person who is eligible for health care benefits under any federal or state program providing financial assistance or preventive and rehabilitative social services shall be eligible under the plan.

(b) No person who is covered under the plan and who terminates coverage shall be again eligible for coverage unless twelve (12) months have elapsed since the coverage was terminated.

(c) No person on whose behalf the plan has paid out one million dollars ($1,000,000) in covered benefits shall be eligible for coverage under the plan. However, upon application to the board, the individual may purchase, at an actuarially justified rate, additional coverage through the plan.

(d) The coverage of any person who ceases to meet the eligibility requirements of this section may be terminated at the end of the policy period.

(e) No inmate incarcerated in any state penal institution or confined to any narcotic detention, treatment, or rehabilitation facility shall be eligible for coverage under the plan, except that this exclusion shall not apply to any eligible individual.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Establish administrative and accounting procedures for the operation of the plan, prepare an annual budget, and issue an annual report on board operations for submission to the Department of Insurance and the Auditor of Public Accounts;

(2) Establish procedures under which applicants and participants in the plan may have grievances reviewed by an impartial body and reported to the board;

(3) Select and continuously monitor the performance of an administering insurer in accordance with Section 19 of this Act;

(4) Require that all policy forms issued by the board conform to nationally recognized uniform claim forms developed by the board. The forms shall be approved by the commissioner;

(5) Develop a program to publicize the existence of the plan, eligibility requirements of the plan, and the procedures for enrollment in the plan, and to maintain public awareness of the plan; and

(6) Establish and update annually provider reimbursement rates that assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population. The board shall not authorize contracts that allow health care providers to bill insureds in the plan for services covered and authorized under the plan in excess of that amount.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Exercise powers granted to insurers under this chapter; and

(2) Sue or be sued, except that no member of the board shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of the board.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board shall select an administering insurer, through a competitive bidding process in accordance with KRS Chapter 45A, to administer the plan. The administering insurer shall be either an insurer or third party administrator. The board shall evaluate the bids submitted under this subsection based on criteria established by the board, which criteria shall include, but not be limited to, the following:

(a) The administering insurer's proven ability to handle health insurance;

(b) The efficiency of the administering insurer's medical claims-paying procedures;

(c) An estimate of total charges for administering the plan;

(d) The administering insurer's ability to administer the plan in a cost-efficient manner; and

(e) The ability to supply accurate financial reports as required by the board.

(2) The administering insurer may serve for a period of three (3) years. At least one (1) year prior to the expiration of each three (3) year period of service by an administering insurer, the board shall invite all insurers, including the current administering insurer, to submit bids to serve as the administering insurer for the succeeding three (3) year period. The selection of the administering insurer for the succeeding three (3) year period shall be made at least nine (9) months prior to the end of the current three (3) year period, and the board shall provide for an appropriate transition between the current administering insurer and its successor for a period of not fewer than three (3) months.

(3) The administering insurer shall:

(a) Perform all eligibility and administrative claims-payment functions relating to the plan;

(b) Pay an agent's referral fee as established by the board to each agent who refers an applicant to the plan, if the applicant is accepted. The selling or marketing of the plan shall not be limited to the administering insurer or its agents. The referral fees shall be paid by the administering insurer from moneys received as premiums for the plan;

(c) Establish a premium billing procedure for collection of premiums from persons insured under the plan;

(d) Perform all necessary functions to assure timely payment of benefits to covered persons under the plan, including, but not limited to, the following:

1. Making available information relating to the proper manner of submitting a claim for benefits under the plan and distributing forms upon which submissions shall be made;

2. Evaluating the eligibility of each claim for payment under the plan; and

3. Notifying each claimant within thirty (30) days after receiving a properly completed and executed proof of loss whether the claim is accepted, rejected, or compromised;

(e) Submit regular reports to the board regarding the operation and financial condition of the plan. The frequency, content, and form of the reports shall be determined by the board. Financial condition shall be reported at least monthly to the board; and

(f) Following the close of each calendar year, determine net premiums, reinsurance premiums less administrative expenses allowance, the expense of administration pertaining to the reinsurance operations of the plan, and the incurred losses for the year, and report this information to the board and to the commissioner.

(4) (a) The administering insurer shall be paid, as provided in the contract of the plan, for its direct and indirect expenses in administering the plan. The amount paid under this paragraph shall not exceed twenty percent (20%) of the premium over the life of the contract.

(b) As used in this subsection, the term "direct and indirect expenses" includes the portion of the audited administrative costs, printing expenses, claims administration expenses, management expenses, building overhead expenses, and other actual operating and administrative expenses of the administering insurer that are approved by the board as allocable to the administration of the plan and included in the bid specifications.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Following the close of each fiscal year, the plan administrator shall determine the net premiums, which shall be total premiums less administrative expense allowances, the plan expenses of administration, and the incurred losses for the year, taking into account investment income and other appropriate gains and losses, and shall report the information to the board.

(2) The board may revise the fixed schedule of benefits and cost containment features provided under the plan as necessary to ensure that the plan maintains adequate resources for continued operation.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The coverage provided by the plan shall be directly insured by the plan, and the policies shall be administered through the administering insurer.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) The plan shall offer three (3) health benefit plans to plan participants similar to the health benefit plans existing at the time of the effective date of this Act. Initially, one (1) plan shall be the standard high plan in effect on the effective date of this Act. Health benefit plans shall be offered with high, medium, and low coverage options.

(b) Plans shall be filed with and approved by the commissioner. At least one (1) plan shall be offered in a

traditional fee-for-service form and, in areas where managed care plans are available, at least one (1) plan shall be offered in a managed care form.

(c) The board shall provide some form of utilization review and case management on indemnity plans. The board shall periodically compare health benefit plans in the Kentucky comprehensive health insurance plan to health benefit plans in the marketplace.

(d) Health benefit plans may be amended or replaced as determined by the board and shall be filed with and approved by the commissioner.

(e) Any person whose health insurance is involuntarily terminated for any reason other than a factor described in subsection (2)(a), (b), and (c) of Section 5 of this Act may apply for coverage under the plan. If the coverage is applied for within sixty-three (63) days after the involuntary termination, and if premiums are paid for the first month of coverage after issuance, the effective date of the coverage shall be the date of the application or date of termination of the previous coverage, whichever is later.

(f) The plan shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue under the same or a different contract.

(g) The plan shall impose pre-existing condition standards as allowed health benefit plans under Section 4 of this Act.

(h) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, and by all hospital and medical expense benefits paid or payable under any workers' compensation coverage, automobile medical payment or liability insurance, and by any hospital or medical benefits paid or payable under or provided under any state or federal law or program except Medicaid. The plan shall have a cause of action against an eligible person for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this subsection.

(2) (a) The plan shall offer insurance coverage provided for in subsection (1) of this section up to a lifetime limit of one million dollars ($1,000,000) per covered individual. The maximum limit under this paragraph shall not be altered by the board, and no actuarially equivalent benefit may be substituted by the board.

(b) The schedule of premiums and deductibles shall be established by the board.

(c) Rates for plan coverage shall be determined as follows:

1. For persons who had previous health insurance coverage and the previous coverage was continuous for the twelve (12) months immediately preceding a date sixty-three (63) days prior to application to the plan, the rates for plan coverage shall be no more than one hundred thirty five percent (135%) of rates established as applicable for individual standard risks.

2. For persons without previous continuous coverage as set out in subparagraph 1. of this paragraph, the rates for plan coverage shall be no more than one hundred fifty percent (150%) of rates established as applicable for individual standard risks.

3. Rates for supplemental policies offered by the plan shall not exceed the rate for the standard risk if the service covered by the supplemental policy is not related to any condition arising out of the covered person's medical condition.

(d) Separate schedules of premium rates based on age and gender may apply for individual risks.

(e) Coverage may provide for reasonable copayments for all benefits or services.

(f) Rates shall be subject to approval by the commissioner.

(g) Standard risk rates for coverages issued by the plan shall be established annually by the board, subject to the approval of the commissioner of insurance, using reasonable actuarial techniques, a statistically valid sampling of insurers in the individual market, and shall reflect anticipated experiences and expenses of coverage for standard risks. Initial rates for plan coverage shall not be less than one hundred twenty-five percent (125%) of rates established as applicable for individual standard risks.

(h) The board shall have a cause of action against a participant for any benefits paid to a participant that should not have been claimed or recognized as claims because of other insurance, or because otherwise not covered.

(i) The plan may offer added benefits, totally paid by the recipient, at rates established by the insurer.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky comprehensive health insurance plan fund as a special fund in the State Treasury. All funds paid to or held by the fund shall be held in trust for the use and benefit of the fund and shall not

lapse. The fund may receive state appropriations, gifts, amounts recovered by the fund through legal actions, premium refunds collected under Section 8 of this Act, risk adjustment collections under Section 27 of this Act, tax receipts under Section 24 of this Act, and grants and shall include premiums and earnings from moneys in the fund. All expense and revenue transactions of the fund shall be posted to the state accounting and reporting system (STARS), and its successors.

(2) If premiums or other receipts exceed the amount required for the operation of the plan, including actual losses and administrative expenses of the plan, the board shall direct that the excess be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095, or used to offset future losses or to reduce plan premiums. In this subsection, "future losses" includes reserves for incurred but not reported claims.

(3) For the purposes of this section, a deficit shall be incurred when anticipated costs, losses, and incurred but not reported claims expenses exceed anticipated income from earned premiums net of administrative expenses.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums in excess of the premium taxes and retaliatory taxes collected for the calendar year 1997 shall be remitted to the board by the Revenue Cabinet and used for the benefit of the plan.

SECTION 25. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The plan and the board shall be exempt from all taxes levied by the state or any of its subdivisions.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the regular session of the General Assembly in the year 2000, sixty (60) days prior to that session and each subsequent regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission. The report shall contain an evaluation of the plan, an evaluation of issues concerning high-risk individuals, and recommendations for establishing alternative means of coverage for those individuals in addition to, or as an alternative to, the Kentucky comprehensive health insurance plan.

(2) Beginning no later than January 1, 1999, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the plan, and the costs of the audit shall be borne by the plan. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the Department of Insurance.

Section 27. KRS 304.17A-130 is amended to read as follows:

(1) The ***commissioner of the*** Department of Insurance shall ***establish***[~~implement the administrative regulations promulgated by the Kentucky Health Policy Board for the establishment of~~] a risk adjustment process to be used in ***collecting and distributing funds from all insurers doing health insurance business in Kentucky for the purpose of*** equalizing risk between insurers ***and***[~~which participate within and outside of~~] the Kentucky ***comprehensive health insurance plan***[~~Health Purchasing Alliance~~].

(2) The risk adjustment process shall[~~ at minimum~~] be based on ***a percentage of health insurance premiums written during the assessment period and shall be designed to produce an assessment in an amount sufficient to offset the***[~~gender, retiree status, continuation status, and medical condition information which represent the relative risk of individuals participating with various insurers. The risk adjustment process is not intended to, and shall not, neutralize cost variations among insurers based on efficiency, ability to manage health costs and patient care, and the administration of policy provisions. The process shall not base adjustment for insurers on their individual premiums, administrative expenses, claims, or use of health care services. Preset amounts shall be established to reflect the demographic and~~] medical risk characteristics ***and costs*** of individuals enrolled ***in and other liabilities of the Kentucky comprehensive health insurance plan. This assessment when added to the tax revenue paid in the plan under Section 24 of this Act shall not exceed the anticipated losses and administrative expenses of the fund.***[~~by insurers.~~

~~(3)~~]The risk adjustment ***for the calendar year 1998***[~~process~~] shall be ***designed to produce an assessment in an amount not to exceed the amount collected under the administrative regulation promulgated by the Kentucky Health Policy Board for the twelve (12) month period immediately preceding the effective date of this Act. The percentage rate used to determine the assessment in 1998 shall be applied to the health insurance premium written to determine the assessments for calendar year 1999 and each calendar year thereafter.***

(3) On or before March 31 of 1998, and each March 31 thereafter, the plan shall certify to the commissioner the balance of funds in the Kentucky comprehensive health insurance plan as of December 31 preceding. If the certification indicates the plan has a deficit, the commissioner shall assess the insurers based on percentage of

health insurance premiums written during the assessment period subject to the limitations in subsection (2) of this section. To the extent the assessment collected under subsection (2) of this section, the tax collected under Section 24 of this Act, and the general funds appropriated under Section 62 of this Act are not sufficient to offset the losses and administrative expenses of the Kentucky comprehensive health insurance plan, the commissioner shall assess the insurers an amount not to exceed the amount under subsection (2) of this section. In no event shall the assessment in this subsection produce an amount in excess of the projected deficit[~~administered by the department so that the process can be applied on a marketwide basis. All insurers shall submit information designated by the department as necessary to administer the risk adjustment process. All insurers shall contribute on an annual basis a preset amount for each person covered toward the establishment and administration of the risk adjustment process. Insurers shall receive from, or contribute amounts to, the department based on the insurer's relative risk profile as determined by the risk adjustment process~~].

(4) *Beginning with the calendar year 2000, the risk adjustment process established in subsection (2) of this section shall collect an amount on a prospective basis without the expectation of additional general fund appropriations. Any general fund appropriations remaining in the fund on July 1, 2000, shall lapse to the general fund.*

(5) The risk adjustment process shall be ***administered by***[~~established by no later than April 1, 1995.~~] the department*. All insurers shall submit information designated by the department as necessary to administer the risk adjustment process. Insurers shall contribute amounts to the Kentucky comprehensive health insurance plan as determined by*[~~may authorize one (1) or more pilot projects as part of an ongoing reevaluation and refinement of~~] the risk adjustment process.

(6) Insurers paying an assessment may include in any health insurance rate filing assessments paid as provided in Section 8 of this Act.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A person who is not a state employee but who on the effective date of this Act is covered by the self-insured plan available for state employees under KRS 18A.2251 or KRS 18A.2281 shall be allowed to renew the coverage. No coverage offered to commercial small groups under KRS 18A.2281 shall be renewed after the effective date of this Act.

(2) Health benefit plans issued to persons under the state employee health care buy-in as set out in KRS 18A.2251 and that are in effect on the effective date of this Act shall be renewed or replaced under the same terms and conditions as those for state employees. These policies shall be renewed or replaced after the effective date of this Act at a premium rate as follows:

(a) For the first renewal, one hundred seven percent (107%) of the state employee rate;

(b) For the second renewal, one hundred fourteen percent (114%) of the state employee rate;

(c) For the third renewal, one hundred twenty-one percent (121%) of the state employee rate;

(d) For the fourth renewal, one hundred twenty-eight percent (128%) of the state employee rate; and

(e) For the fifth and subsequent renewal, one hundred thirty-five percent (135%) of the state employee rate.

(3) Health benefit plans issued to persons who are not state employees under KRS 18A.2281 and that are in effect on the effective date of this Act shall be renewed or replaced at premium rates determined as set out in Section 9 of this Act. Beginning one hundred eighty (180) days after the commissioner certifies to the Department of Personnel that the individual insurance market has become competitive, persons who are not state employees covered under KRS 18A.2281 shall not be allowed to renew such policies.

(4) The Department of Personnel shall report to the board of the Kentucky comprehensive health insurance plan, the commissioner of the Department of Insurance, and the Legislative Research Commission on a quarterly basis the following information related to persons who are not state employees but who are covered under KRS 18A.2281:

(a) The amount of premiums paid;

(b) The amount of claims paid;

(c) The deficit or surplus created by the difference in the premium and claims; and

(d) Any other information required by the commissioner of the Department of Insurance to carry out this section. The report shall be submitted within ninety (90) days after the end of the calendar quarter. The first report shall be due within ninety (90) days after March 1, 1998, for the months of January, February, and March, 1998.

(5) Any surplus reported in subsection (4) of this section by the Department of Personnel shall be maintained by the department to offset any future deficits and such funds shall not lapse. The commissioner of the Department of Insurance may cause the amount of the deficit to be paid to the Department of Personnel from the funds of the

Kentucky Comprehensive Health Insurance Plan.

(6) Insurers who issued health benefit plans to persons under the state employee health care buy-in as set out in KRS 18A.2251 shall report to the board of the Kentucky Comprehensive Health Insurance Plan, the commissioner of the Department of Insurance, and the Legislative Research Commission on a quarterly basis the following information related to persons who are covered under KRS 18A.2251:

(a) The amount of premiums paid;

(b) The amount of claims paid;

(c) The deficit or surplus created by the difference in the premium and claims; and

(d) Any other information required by the commissioner of the Department of Insurance to carry out this section.

(7) The reports made under subsections (4) and (6) of this section shall be submitted within ninety (90) days after the end of the calendar quarters. The first report shall be due within ninety (90) days after March 1, 1998, for the months of January, February, and March, 1998. The commissioner of the Department of Insurance may cause the amount of any deficit to be paid to the Department of Personnel or to the insurers from the funds of the Kentucky Comprehensive Health Insurance Plan.

(8) A person other than a state employee who fails to renew a policy under this section shall no longer be eligible to purchase the state employee plan.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 29 to 42 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child.

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Experimental treatment" means services or supplies, including treatments, procedures, hospitalizations, drugs, biological products or medical devices, which a peer review panel determines are not of proven benefit for the particular diagnosis or treatment of the covered person's particular condition, or not generally recognized by the medical community as effective or appropriate for the particular diagnosis or treatment of the covered person's particular condition, or provided or performed in special settings for research purposes or under a controlled environment or clinical protocol. Unless otherwise required by law with respect to drugs that have been prescribed for the treatment of a type of cancer for which the drug has not been approved by the United States Food and Drug Administration, the plan shall not cover any services or supplies including treatment, procedures, drugs, biological products, or medical devices or any hospitalization in connection with experimental or investigational services or supplies. The plan shall also not cover any technology or any hospitalization in connection with that technology if that technology is obsolete or ineffective and is not used generally by the medical community for the particular diagnosis or treatment of the covered person's particular condition. Governmental approval of a technology is not necessarily sufficient to render it of proven benefit or appropriate or effective for a particular diagnosis or treatment of the particular condition as provided in this subsection. The plan shall apply the following five (5) criteria in determining whether services or supplies are experimental or investigational:

(a) Any medical device, drug, or biological product shall have received final approval to market by the United States Food and Drug Administration (FDA) for the particular diagnosis or condition. Any other approval

granted as an interim step in the FDA regulatory process, such as an investigational device exemption or an investigational new drug exemption, is not sufficient. Once FDA approval has been granted for a particular diagnosis or condition, use of the medical device, drug, or biological product for another diagnosis or condition requires that one (1) or more of the following established reference compendia: the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopeia Drug Information, recognize the usage as appropriate medical treatment. As an alternative to this recognition in one (1) or more of the compendia, the usage of the drug shall be recognized as appropriate if it is recommended by a clinical study and recommended by a review article in a major peer-reviewed professional journal. A medical device, drug, or biological product that meets the tests in this paragraph shall not be considered experimental or investigational. Any drug that the FDA has determined to be contraindicated for the specific treatment for which the drug has been prescribed shall be considered experimental or investigational;

(b) Conclusive evidence from the published peer-review medical literature shall exist that the technology has a definite positive effect on health outcome; this evidence shall include well-designed investigations that have been reproduced by nonaffiliated authoritative sources, with measurable results, backed up by the positive endorsements of national medical bodies or panels regarding scientific efficacy and rationale;

(c) Demonstrated evidence as reflected in the published peer-review medical literature shall exist that over time the technology leads to improvement in health outcomes, such as the beneficial effects outweigh any harmful effects;

(d) Proof as reflected in the published peer-reviewed medical literature shall exist that the technology is at least as effective in improving health outcomes as established technology, or is usable in appropriate clinical contexts in which established technology is not employable; and

(e) Proof as reflected in the published peer-reviewed medical literature shall exist that improvements in health outcomes, as defined in paragraph (c) of this subsection, is possible in standard conditions of medical practice, outside clinical investigatory settings;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health insurance policy" means "health benefit plan" as defined in Section 1 of this Act;

(8) "Insurer" has the meaning provided in Section 1 of this Act;

(9) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(10) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(11) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(12) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(13) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 30 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health

care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, a provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the physician's approval.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A managed care plan that denies coverage for experimental services, including treatments, procedures, drugs, or devices for an enrollee, shall provide the enrollee with a denial letter within twenty (20) working days of the submitted request for the coverage. The letter shall include:

(1) The name and title of the person making the decision;

(2) A statement setting forth the specific medical and scientific reasons for denying coverage;

(3) A description of alternative treatment, services, or supplies covered by the plan, if any; and

(4) A copy of the plan's grievance and appeal procedure.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a

contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state.

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements.

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history.

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization of mental health and chemical dependency health services to be provided to the patient, and for

payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific consent to the redisclosure.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer issuer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 41. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 29 to 42 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 29 to 42 of this Act.

SECTION 42. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after January 1, 1998, unless it and the insurer meet the requirements of Sections 29 to 42 of this Act.

SECTION 43. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

(a) All assessments placed on insurers under Section 27 of this Act;

(b) All rating restrictions placed on employer-organized associations under Section 10 of this Act;

(c) All rate review requirements placed on insurers under this subtitle;

(d) All data collection requirements placed on insurers under this subtitle; and

(e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

SECTION 44. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by March 30 to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

(a) Total cost per health and medical service per insured group per month:

1. Cost paid by insurer;

2. Cost paid by insured; and

(b) Percentage of insured who received each service.

SECTION 45. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical care, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this Act, in the General Assembly, a sponsor of a bill and any member proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates before final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee.

SECTION 46. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is created within the department a consumer protection and education division which shall include an office of ombudsman.

Section 47. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer~~[as defined in KRS 304.17A-100]~~, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) ***It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky comprehensive health insurance plan or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.***

(4) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under Section 27 of this Act. As an alternative, the commissioner may levy a forfeiture on any member insurer that fails to pay the assessment when due. The forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(5) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

Section 48. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to

the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 49. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.[

~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~] If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 50. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to ***any rates filed under Subtitle 17A of this chapter,***[~~ standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period

within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 51. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 – Scope – General Definitions and Provisions;

(2) Subtitle 2 – Insurance Commissioner;

(3) Subtitle 3 – Authorization of Insurers and General Requirements;

(4) Subtitle 4 – Fees and Taxes;

(5) Subtitle 5 – Kinds of Insurance – Limits of Risk – Reinsurance;

(6) Subtitle 7 – Investments;

(7) Subtitle 12 – Trade Practices and Frauds;

(8) Subtitle 14 – KRS 304.14-500 to 304.14-560;

(9) Subtitle 17A – Health Benefit Plans;

(10)[~~ Subtitle 18 – KRS 304.18-050;~~

~~(11)~~] Subtitle 25 – Continuity of Management;

(11)[~~(12)~~] Subtitle 33 – Insurers Rehabilitation and Liquidation;

(12)[~~(13)~~] Subtitle 37 – Insurance Holding Company Systems; and

(13)[~~(14)~~] Subtitle 99 – Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

Section 52. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

(a) The design of the standard health benefit ***plan***[~~plans pursuant to KRS 304.17A-160~~];

(b) The rate-filing process for all health benefit plans;

(c)[~~ The definition of high-risk conditions;~~

~~(d)~~] The administrative regulations concerning this subtitle to be promulgated by the department; and

(d)[~~(e)~~]Other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) ***No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under subsection (2) of Section 15 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.***

(6) For each calendar year that the Kentucky comprehensive health insurance plan is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section[~~The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner~~].

Section 53. KRS 304.17A-145 is amended to read as follows:

(1) A health benefit plan[~~, as defined in KRS 304.17A-100,~~] issued or renewed on or after July 15, 1996, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a health benefit plan if the health benefit plan authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of health benefit plans in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Section 54. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) [~~(a)~~]"Health benefit plan" ***has the meaning provided in Section 1 of this Act***[~~means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard and supplemental health benefit plan as established in KRS 304.17A-160, which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.~~

~~(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, or conversion policies for group health policies existing on January 1, 1994, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160~~].

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons

covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" means any entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services.

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

Section 55. KRS 304.38-050 is amended to read as follows:

(1) No health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, or the schedule of fees or other periodic charges to be paid by enrollees, until a copy of the form has been filed with and approved by the commissioner. Each form shall contain a complete and clear statement of:

(a) The health care services to which the enrollee is entitled;

(b) Any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of health care services.

Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that the charges or fees are not excessive, inadequate, or unfairly discriminatory.

(2) At the expiration of sixty (60) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the sixty (60) day waiting period shall begin anew after the close of the hearing. Approval of the form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove the form by giving notice to the insurer of the extension before expiration of the initial sixty (60) day period. At the expiration of the period as so extended, and in the absence of the prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may at any time withdraw the approval.

(3) This section shall not apply to rate filings made under Subtitle 17A of this chapter.

Section 56. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits,~~[motor vehicle health insurance benefits,]~~ and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;

2. Health care quality and outcomes;

3. Health care providers and health services;

4. Health insurance costs; and

5. The cost of health benefits covered by[~~ motor vehicle insurance and~~] workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) Appoint a permanent advisory committee to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published.

(3)[~~All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:~~

~~(a) Total premiums paid;~~

~~(b) Total cost of claims filed and paid;~~

~~(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;~~

~~(d) Total policies canceled by type and the aggregate reasons therefor;~~

~~(e) List of total health and medical services paid for, grouped by types of services and costs:~~

~~1. Total cost per health and medical service per insured group per month;~~

~~a. Cost paid by insurer;~~

~~b. Cost paid by insured; and~~

~~2. Percentage of insureds who received each service.~~

~~If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.~~

~~(4)~~] The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 57. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281.

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) [~~(a) "Mandatory alliance member" means:~~

~~1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;~~

~~2. Elected and salaried employees of local school districts;~~

~~3. Employees of local and district health departments;~~

~~4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and~~

~~5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:~~

~~a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and~~

~~b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.~~

~~(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate~~

~~provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.~~

~~(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.~~

~~(18)~~]"Medical outcomes" means a change in an individual's health status after the provision of health services.

(18)[~~(19)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(19)[~~(20)~~] "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(20)[~~(21)~~] "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(21)[~~(22)~~] "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(22)[~~(23)~~] "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts***; or***

(f) Any person for whom the Commonwealth provides health insurance under KRS 18A.225 to 18A.229; or

(g) Elected and salaried employees of local school districts; or

(h) Employees of local and district health departments; or

(i) Justice, judges, clerks, deputy clerk, and all other employees of the Judicial Department.

Section 58. KRS 304.12-085 is amended to read as follows:

(1) No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, or sex except that rates determined through valid actuarial tables shall not be violative of KRS Chapter 344.

(2) In the case of benefits consisting of medical care provided under, offered by, or in connection with a group or individual health plan, the plan or issuer may not deny, cancel, or refuse to renew the benefits or coverage, or vary the premiums, terms, or conditions for the benefits or coverage, for any participant or beneficiary under the plan:

(a) On the basis of a genetic test, for which symptoms have not manifested; or

(b) On the basis that the participant or beneficiary has requested or received genetic services.

(3) A group or individual health plan or insurer offering health insurance in connection with a plan may not request or require a participant or beneficiary to disclose to the plan or issuer any genetic test about the participant, beneficiary, or applicant.

(4) A group or individual health plan or a health insurance issuer offering health insurance coverage may not disclose any genetic test about a participant or beneficiary without prior authorization by the participant. The authorization is required for each disclosure.

Section 59. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide

diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically-related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the ***amortization*** cost ***per year*** is less than six hundred thousand dollars ($600,000) and the ***provider gives notice of intent to provide the*** services[~~ are in place~~] by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are ***provided on site***[~~in place~~] as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts unless the physician's office meets the criteria set forth in KRS 216B.015(3);

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015(3), except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

(4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.

(5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.

(6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.

(7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

Section 60. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 – Refunds – Suspension of certificate of authority – Notification of review.

Section 61. Effective January 1, 1999, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance – Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans – Certification.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans – Geographic rating areas – Exemption – Permitted deviation from index community rates.

304.17A-160 Standard health benefit plans – Written agreement required before provider may be represented as participating.

304.38-080 Information to enrollees – Open enrollment.

Section 62. To carry out the purposes of this Act, there is appropriated to the Kentucky comprehensive health insurance plan fund out of the general fund in the State Treasury the sum of five million dollars ($5,000,000) for fiscal year 1997-1998. The Governor shall include in the budget recommendation for the executive branch and in the draft branch budget bill for the executive branch submitted to the 1998 regular session of the General Assembly for the biennium period beginning July 1, 1998, and ending June 30, 2000, a recommendation for appropriations to the Kentucky comprehensive health insurance plan fund. The amount to be recommended shall be five million dollars ($5,000,000) out of the general fund for each fiscal year.

Section 63. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth, and premium rates have increased, which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Introduction of Resolutions

HR 8, by Representatives Barrows, Richards, L. Clark, Stumbo, Ford, Allen, Callahan and Cave: A RESOLUTION directing the Legislative Research Commission to secure placement of a bronze plaque honoring Vic Hellard, Jr.

HR 9, by Representatives Mason and Zimmerman: A RESOLUTION adjourning the House of Representatives in honor of Charles L. Siler upon the occasion of his induction into the 1997 Officer Candidate School Hall of Fame.

Motions, Petitions and Communications

Representative Zimmerman moved the adoption of the following **HR 9**:

HR 9, A RESOLUTION adjourning the House of Representatives in honor of Charles L. Siler upon the occasion of his induction into the 1997 Officer Candidate School Hall of Fame.

WHEREAS, Charles L. Siler was commissioned an Infantry Officer upon graduation from Officer Candidate School on August 22, 1952, with his first duty assignment as Assistant Information Officer, 11th Airborne Division, Fort Campbell, Kentucky; and his subsequent duty assignments included Weapons Platoon Leader, B Company, 1st Battalion, 17th regiment, 7th Infantry Division, Korea; Company Commander, Korea; Information Officer, 1st Cavalry Division, Japan; Information Officer, 82nd Airborne Division, Fort Bragg, North Carolina; Information Officer, 4th Armor Division, Germany; Information Officer, Combined 1st Cavalry Division & 2nd Infantry Division, Fort Benning, Georgia; Information Officer, 1st Cavalry Division, Vietnam; Battalion Commander, 2nd Battalion, 7th Cavalry, 1st Cavalry Division; Vietnam; Information Officer, US Army Pacific, Hawaii; Information Officer, CDC, Fort Belvoir, Virginia; Information Officer, J. F. Kennedy Special Warfare Center & School, Fort Bragg, North Carolina; and

WHEREAS, Charles L. Siler was sent to Frankfort as a voice for the eighty-second Legislative District which comprises McCreary and Whitley Counties, and he has unselfishly devoted many years of dedicated service to the citizens of this great Commonwealth by introducing legislation that expanded the Fair Access to Insurance Requirements (FAIR) to include homesteads and farmsteads; he authored and passed legislation establishing and funding the Kentucky Emergency Response Program which has been considered a model program for the nation; he was instrumental in developing the Kentucky Police Training Program at Eastern Kentucky University; and he has been a strong supporter of the Kentucky Education Reform Act, the post secondary education program, and mandatory kindergarten; and

WHEREAS, Charles L. Siler continues to serve his country with distinction on the Veteran Affairs Subcommittee; he has played a significant role in the establishment of the Kentucky Veteran Center that provides care for 298 veterans; and he currently serves on the Veteran Nursing Home Task Force as finance chairman for the construction of two 120-bed, primary-care facilities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Being wholly deserving of the praise of this honorable body, we do hereby express our appreciation and gratitude to Charles L. Siler for serving his country with distinction, both in the United States Army and his years as a public servant, devoting countless hours of dedicated service to the citizens of this great Commonwealth.

Section 2. The House of Representatives hails and lauds Charles L. Siler as an exemplary citizen of the Commonwealth of Kentucky, and congratulates him upon his induction into the prestigious Officers Candidate School Hall of Fame on September 12, 1997.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Charles L. Siler upon the occasion of his induction into the Officer Candidate School Hall of Fame.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Charles L. Siler, 3570 Tackett Creek Road, Williamsburg, Kentucky 40769.

There being no objection **HR 9** was adopted.

Representative Mason moved that a call of the roll be taken to show co-sponsors of **HR 9**. Agreed.

Roll call to show co-sponsors of **HR 9**:--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crimm, Curd, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Simpson, Sims, Stacy, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Worthington, Yonts, Zimmerman.

Representative Stumbo moved that **SB 1** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Baugh moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 13**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Clint Ramsey. The House of Representatives joins Representative Sheldon Baugh in expressing its profound sympathy to all who share in the loss through the tragic passing of this dearly beloved young man, the cherished son of Ed Ramsey and Sara Ortez Ramsey, adored brother of Erik and Bonnie Ramsey, grandson of Mr. and Mrs. Wayne Ramsey and Della Cruz, great-grandson of Mr. and Mrs. Sam Gregory and Lula Allen. Clint was a highly regarded eighth grade student at Adair Middle School, where his father teaches. His fellow students and teachers deeply mourn the loss of this young man who was so much a vital part of this community. We remember him today as a talented young man filled with joy and vision. Our hearts are heavy with sorrow for the brevity of his presence on this earth and we extend sincere and heartfelt condolences to his family and his friends. **Legislative Citation No. 13** was adopted without objection.

Representative Barrows moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Barrows moved the adoption of the following **HR 8**:

HR 8, A RESOLUTION directing the Legislative Research Commission to secure placement of a bronze plaque honoring Vic Hellard, Jr.

We pause in silent reverence as we remember Vic Hellard, Jr., our friend and colleague.

WHEREAS, Vic Hellard, Jr. served two successive terms in the Kentucky General Assembly, representing the fifty-sixth legislative district of Woodford and Jessamine counties; and

WHEREAS, Vic Hellard, Jr. held the position of director of the Legislative Research Commission for eighteen years, and because of his outstanding vision and expertise, was instrumental in making significant contributions to the legislative process, diverting it from the auspices of the Governor to a strong and independent legislative body; and

WHEREAS, Vic Hellard, Jr. demonstrated an unwavering dedication to the citizens of this great Commonwealth during his career as a public servant, and served as an inspiration to his fellow peers through his endless efforts and tireless commitment to the causes and beliefs he steadfastly supported; and

WHEREAS, in deepest respect and admiration for our colleague and friend, Vic Hellard, Jr., it is only appropriate that we commemorate him by placing a bronze plaque in his likeness on the third floor of the State Capitol;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body, in its expression of deep appreciation to Vic Hellard, Jr. for his many years of commitment and dedicated service to the citizens of this great Commonwealth, does hereby direct the Legislative Research Commission to secure placement of a bronze plaque in the likeness of Vic Hellard, Jr. on the third floor of the State Capitol.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Vic Hellard, Jr.

There being no objection **HR 8** was adopted.

Roll call to show co-sponsors of **HR 8**:–J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Colter, Cox, Crall, Crimm, Curd, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Worthington, Yonts, Zimmerman.

Representative Ratliff moved the adoption of the following **Legislative Citation No. 14**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers this posthumous commendation for Steven E. Bryant and Benny C. Chaney, volunteer firefighters with the Feds Creek Area Volunteer Fire Department, who received fatal injuries in an arson fire on June 19, 1991. It is with a sense of deep sorrow on this day that we remember these brave Kentucky citizens who made the supreme sacrifice of laying down their own lives for the safety of their community. Inasmuch as Steven E. Bryant and Benny C. Chaney were men of extraordinary courage, this honorable body respectfully joins Representative Chris Ratliff in extending its most heartfelt gratitude to their families, friends and fellow citizens as they honor the memory of these exceptional men. **Legislative Citation No. 14** was adopted without objection.

Announcements

The following meetings were announced:

Subcommittee on Planning and Zoning, 10:00 a.m., Room 111, October 9, 1997.

Minority Caucus, Room 111, upon adjournment, October 7, 1997.

Appropriations and Revenue, 30 minutes upon adjournment, October 7, 1997.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., October 9, 1997.

On the roll call the vote was **Yeas 81**–J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brown, Bruce, Burch, De. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crimm, Curd, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Worthington, Yonts, Zimmerman. **Nays 6**–Allen, Bratcher, Dw. Butler, Crall, Lile, Stewart.

The motion to adjourn was adopted.

THURSDAY, OCTOBER 9, 1997

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Mark Hopper, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Ballard, Burch, Deskins, Geveden, Heleringer, Jenkins, Simpson, and Worthington.

The Clerk read the following amended Governor's Proclamation:

Proclamation by Paul E. Patton, Governor of the Commonwealth of Kentucky:

To All To Whom These Presents Shall Come: Pursuant to the power vested in me by Section 80 of the Constitution of the Commonwealth of Kentucky, I, Paul E. Patton, Governor of the Commonwealth of Kentucky, do issue this Proclamation, amending my proclamation dated September 26, 1997, all the terms of which are incorporated by reference herein, and I do further hereby add the following matters to said proclamation for consideration by the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky:

(1) Create a general fund appropriation in an amount not to exceed $15 million in fiscal year 1997 - 1998 to provide support to the Commonwealth's Kentucky Kare health insurance program.

(2) Amend various provisions of the Kentucky Revised Statutes as necessary to implement the provisions of this proclamation.

(3) Declaring an emergency thereby making any legislation enacted pursuant to this Proclamation effective upon the signature of the Governor.

DONE AT THE CAPITOL, in the City of Frankfort, this 30th day of September in the year of our Lord One Thousand Nine Hundred and Ninety-Seven and in the year of the Commonwealth the Two Hundred and Sixth.

Representative Stacy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Stacy moved that the reading of the Journal of October 8, 1997, be dispensed with and the same approved. Agreed.

Representative Stacy moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Stacy moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 10, by Representative Zimmerman: A RESOLUTION adjourning the House of Representatives in honor of karate champion Kelsey Hughes.

HR 11, by Representative Marzian: A RESOLUTION expressing intent to enact legislation during the 1998 Regular Session to allow for tax incentives for the purchase of long-term care insurance.

Senate Message

Announcing passage of **HB 1**. (Time: 2:05 p.m.)

Report of Committees

The Committee on Appropriations and Revenue reported **SB 1**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute to **SB 1** is as follows:

SB 1, AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws.

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in Section 10 of this Act, with similar case characteristics for health benefit plans with the same or similar coverage.

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3).

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33).

(5) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169); or

(c) 42 U.S.C. sec. 300bb.

(6) "Creditable coverage" means as defined in 42 U.S.C. 300gg(c)(1).

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C.A. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C.A. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a), (b), and (c) in Section 5 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(8) "Employer-organized association" means any of the following:

(a) Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled; or

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

(c) Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

No employer-organized association shall be treated as an association, small group, or large group under this subtitle.

(9) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32).

(10) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or any health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky,

whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

- *(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;*
- *(b) Chiropractors licensed under KRS Chapter 312;*
- *(c) Dentists licensed under KRS Chapter 313;*
- *(d) Optometrists licensed under KRS Chapter 320;*
- *(e) Physician assistants regulated under KRS Chapter 311;*
- *(f) Nurse practitioners licensed under KRS Chapter 314; and*
- *(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A.*

(12) "Health status" means an individual's mental and physical condition, using the following factors: medical condition, claims experience, medical history of the individual only, and health service utilization.

(13) "High-cost condition" means a condition covered by a health insurance policy that has been determined by the commissioner to constitute a high-cost condition. The use of tobacco products alone shall not constitute a high-cost condition.

(14) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(15) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan.

(16) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(17) "Large group" means:

- *(a) An employer with fifty-one (51) or more employees; or*
- *(b) An affiliated group or association with fifty-one (51) or more eligible members.*

(18) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

- *(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;*
- *(b) Contracts with selected health care providers;*
- *(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;*
- *(d) Controlled access to and coordination of services by a case manager; or*
- *(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.*

(19) "Market segment" means the portion of the market covering one (1) of the following:

- *(a) Individual;*
- *(b) Small group;*
- *(c) Large group; or*
- *(d) Association;*

(20) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(21) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery

network created and qualified under KRS 304.17A-300 and KRS 304.17A-310.

(22) "Purchaser" means an individual, an organization, an employer, an association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(23) "Purchasing cooperative" means any voluntary collection of one hundred (100) or more individuals or organizations who band together for the purposes of purchasing health insurance. "Purchasing cooperative" does not mean either:

(a) Any multiemployer plan, any multiple employer welfare arrangement, or any trust or other arrangement by which health insurance plans are issued to a group health plan; or

(b) Any collection of individuals or organizations organized or established by a health insurance issuer.

(24) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals.

(25) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees.

(26) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year.

(27) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer that offers health benefit plan coverage for small groups shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every employee and dependent eligible for the coverage who applies for enrollment during the period in which the employee and dependent first becomes eligible to enroll under the terms of the group health benefit plan and shall comply with the provisions of 42 U.S.C. secs. 300gg-1 and 300gg-11.

(2) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be guarantee issued to all full-time employees of the employer and shall comply with the pre-existing provisions of Section 3 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group health plans and health insurers offering group health benefit plan coverage in the Commonwealth shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for pre-existing conditions exclusions, including crediting previous coverage, certification of coverage, special enrollment periods, and use of affiliation periods.

(2) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing exclusions as to any eligible individual.

(2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage.

(3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments.

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The insured has engaged in intentional and abusive noncompliance with health benefit plan provisions.

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section.

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer.

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form. However, if such a modification significantly reduces benefits provided in that health benefit plan, and which would otherwise alter the protections for access and quality that are currently offered to the insured, then the insurer must offer the policyholder the option to purchase any other health benefit plan currently being offered by the insurer in that market.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, by administrative regulations, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after December 31, 1997. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan. Except as may be necessary to coordinate with changes in federal law, the

commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially the standard health benefit plan shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars ($1,000,000) per covered individual. The maximum lifetime limit under this subsection shall not be altered by the commissioner, and no actuarial equivalent benefit shall be submitted by the commissioner.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point of service type; or

(d) A preferred provider organization type.

(3) Any health insurer who elects to offer health benefit plans in the individual or small group markets in this state shall, as a condition of offering health benefit plans in that market segment in this state after December 31, 1997, offer and actively market the standard health benefit plan in the individual or small group markets in each and every form of coverage which the health insurer offers to sell.

(4) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under Sections 2 to 5 of this Act.

(5) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, that health insurer shall pay the plan's established rate for those services to the health department.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health benefit plan in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant;

2. A statement of the exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for one (1) year, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers to a natural person who is a resident of the Commonwealth who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children, or an employer or representative of an employer who is considering health insurance coverage that would provide

benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision and a statement setting forth the specific medical and scientific reasons for refusing to issue a plan.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act through June 30, 1998, for approval to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 8. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers***, shall submit a copy of the filing to the Attorney General,*** and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed[~~ with the commissioner~~]. The insurer may submit new filings from time to time as it deems proper[~~, except as provided in subsection (5) of this section~~].

(2) (a) ***A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing must be approved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.***

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurance issuer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year

has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.

[~~Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective. the period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that it needs the additional time for consideration of the filing. At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.~~

~~(b) The commissioner may hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~

~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory;[~~ and~~]

(f) ***The effect on the rates of any assessment made under Section 27 of this Act; and***

(g) Other factors as deemed relevant by the commissioner.

(4)[~~ Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General shall participate as a health insurance consumer intervenor and be considered a party to the hearing.~~

~~(5)~~] ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.***

(5) Notwithstanding subsection (5) of this section, any health benefit plan in effect on the effective date of this Act may, on any renewal date before September 1, 1998, be renewed for a period less than twelve (12) months if both the policyholder and the insurer agree[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase~~].

(6) At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund ***or future premium credit*** to policyholders, enrollees, and subscribers if the commissioner determines that the ***rates or fees previously approved are in violation of KRS Chapter 304***[~~benefits are no longer reasonable in relation to the premiums or fees charged~~].

(7) ***Each insurer paying a risk assessment under Section 27 of this Act may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.***

(8) The commissioner may by administrative regulation prescribe any additional information ***related to rates, fees, dues and other charges as they relate to the factors set out in subsection (3) of this section*** it deems ***necessary and*** relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]

SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after the effective date of this Act shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ten percent (10%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating during the period from July 15, 1995, until the effective date of this Act for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on each of the first two (2) renewal dates after the effective date of this Act notwithstanding subsection (1) of this section. The plan established under Section 14 of this Act shall reimburse the insurer for any premium loss incurred during the first two (2) policy renewals under this subsection to the extent that funds are available. For the purposes of this subparagraph, the premium loss incurred for each policy renewal period shall be determined as being the premium necessary to provide for the excess claims costs of the high-risk individuals. The excess claims costs equals the excess of the average claims costs for high-risk individuals, less the average claims cost of all other individuals with health benefit plans issued during the period from July 15, 1995, until the effective date of this Act, multiplied by the number of high-risk individuals;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after the effective date of this Act; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after the effective date of this Act and thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, health status, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness

for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than twenty percent (20%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(8) Adjustments in rates for claims experience, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network, if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of high-risk individuals enrolled in its plans to develop the insurer's index rate for its individual policies including the ability to establish a separate class of business.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

(12) For the purposes of subsections (3) and (10) of this section, high risk individuals are defined as individuals who enrolled in a modified community rated health benefit plan in the individual market and, at the time of enrollment, had a condition that would have caused the individual to be denied coverage under the insurer's underwriting guidelines in place immediately prior to July 15, 1995.

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in Section 1 of this Act.

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year.

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled; or

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

(d) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations.

(e) "Index rate" has the meaning provided in Section 1 of this Act.

(f) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon

the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

- *(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate.*
- *(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period may not exceed the sum of the following:*
  - *1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;*
  - *2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for a rating period of less than one (1) year, due to the claims experience, health status, or duration of coverage of the member as determined from the insurer's rate manual; and*
  - *3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.*

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network result in measurable differences in claims costs.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after January 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than December 31, 1998, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on January 1, 1999.

(2) No health benefit plans shall be issued, delivered, or renewed under the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 until the end of the contract or policy period or until the end of December 31, 1998, whichever comes first. The provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 shall become null and void on January 1, 1999.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A health insurer, including the plan created in Section 14 of this Act, shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and is willing to meet the terms and conditions for participation established by the health insurer, including the Kentucky state Medicaid program and Medicaid partnerships.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 13 to 27 of this Act, unless the context requires otherwise:

(1) "Agent" means any person who is licensed or authorized to sell health insurance in this Commonwealth.

(2) "Board" means the board of directors of the Kentucky comprehensive health insurance plan created in Section 14 of this Act.

(3) "Commissioner" means the commissioner of the Department of Insurance.

(4) "Health insurance" means any hospital or medical expense incurred policy or nonprofit health care services plan contract, whether sold as an individual or group policy. The term does not include any policy covering short-term accidents only, a fixed-indemnity policy, a limited benefit policy, medical payment or personal injury coverage in a motor vehicle policy, coverage issued as a supplement to liability insurance, a disability policy, or workers'

compensation.

(5) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act (Pub. L. No. 74-271, 42 U.S.C. sec. 1395, et seq., as amended).

(6) "Physician" means a physician, osteopath, podiatrist, or, for purposes of oral surgery only, a dental surgeon, or, for purposes of prescription of medications only, an optometrist, each duly licensed in this Commonwealth.

(7) "Plan" means the Kentucky comprehensive health insurance plan.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky comprehensive health insurance plan. The plan shall operate independently of the department, but shall be attached to the Department of Insurance for administrative purposes. All insurers, as a condition of doing business in Kentucky, shall be members of the plan.

(2) (a) The plan shall operate under the supervision and approval of the board. The board shall consist of the commissioner or the commissioner's designee, who shall serve as an ex officio member of the board, and nine (9) members appointed by the Governor. Two (2) board members shall be individuals, or the parent, spouse, or relative of individuals, reasonably expected to qualify for coverage by the plan. Two (2) board members shall be representatives of insurers. One (1) board member shall be a licensed insurance agent. One (1) board member shall be a state employee. One (1) board member shall be an employer. One (1) board member shall be a hospital administrator. One (1) board member shall be a licensed physician. The commissioner shall be a nonvoting member. The Governor shall appoint one (1) of the members to serve as the initial chair for a term of one (1) year. Subsequent chairs shall be elected by board members from board membership to serve a term of one (1) year.

(b) The initial board members shall be appointed as follows: three (3) of the members to serve a term of two (2) years; three (3) of the members to serve a term of three (3) years; and three (3) of the members to serve a term of four (4) years. Subsequent board members shall serve for a term of three (3) years. A board member's term shall continue until the member's successor is appointed.

(c) Vacancies in the board shall be filled by the Governor. Board members may be removed by the Governor for cause.

(d) Board members shall not be compensated in their capacity as board members but shall be reimbursed for reasonable expenses incurred in the necessary performance of their duties.

(3) The board shall adopt and submit its articles, bylaws, and operating rules to the commissioner of insurance for approval. If the board fails to adopt suitable articles, bylaws, and operating rules within ninety (90) days after the appointment of the board, the commissioner of insurance shall promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate the provisions of this subtitle; and the administrative regulations shall remain in effect until superseded by articles, bylaws, and operating procedures submitted by the board and approved by the commissioner of insurance.

(4) The board shall employ an executive director, a chief financial officer, an internal auditor, and other support staff necessary to oversee the fiscal operation of the plan and to monitor the administering insurer. The authority of the executive director and the chief financial officer to transfer and expend funds of the plan shall be limited by the bylaws. The internal auditor and staff of the internal auditor shall report directly to the board.

(5) The board may fulfill its duties under Sections 13 to 22 of this Act by providing coverage to high-risk individuals through one (1) or more of the following:

(a) Directly insuring high-risk individuals in the plan;

(b) Obtaining stop loss coverage for the plan;

(c) Indirectly insuring high-risk individual policies issued by an insurer in the individual market segment;

(d) Devising options for insurers to elect to provide health insurance coverage to high-risk individuals on behalf of the board.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every insurer shall participate in the plan.

(2) The commissioner shall, by administrative regulation, establish a list of high-cost conditions based on diagnosis and severity. Before establishing this list, the commissioner shall:

(a) Receive input from medical providers and specialists that deal with high-cost conditions; and

(b) Review current medical documentation on possible high-cost conditions.

At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

(3) An individual covered by a health benefit plan offered by the plan who has a high-cost condition as defined in Section 1 of this Act, and whose claims for the high-cost condition have not exceeded premiums paid for three (3) years, shall be notified by the plan in the last six (6) months of the third year of plan participation that the individual may be able to purchase health insurance outside the plan. The notice shall state that neither the notice nor the individual's actions to purchase health insurance outside the plan shall affect the individual's eligibility for plan coverage.

(4) Health benefit plans available in accordance with Sections 13 to 26 of this Act shall be available for sale as soon as practicable, but no later than six (6) months after the effective date of this section, and shall be available on a guaranteed-issue basis to individuals eligible for plan coverage.

(5) During the transition from the effective date of this Act until the date the plan begins issuing coverage, the commissioner shall contract with insurers to act on behalf of the plan and provide guaranteed-issue policies to individuals. Once the plan becomes operational, it will assume responsibility for those individuals. The insurers under contract shall collect premiums on behalf of the plan at a rate established by the commissioner, which includes provision for health status. Losses incurred in the business accepted on behalf of the plan by the insurer during the transition period shall be paid according to the terms of the contract and shall be covered by the funds of the plan.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any individual who is an eligible individual as defined in Section 1 of this Act is eligible for coverage under the plan.

(2) Any individual who is not an eligible individual as defined in Section 1 of this Act who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for plan coverage may apply for coverage under the plan. No person who is not an eligible individual under Section 1 of this Act shall obtain coverage under the plan unless the person has been rejected by at least two (2) insurers for coverage substantially similar to the plan coverage, or at least two (2) insurers have offered coverage substantially similar to the plan coverage at a rate greater than the plan rate, or the person has a high-cost condition; and no person shall obtain coverage under the plan if the person has, on the date of issue of coverage under the plan, equivalent coverage under another contract or policy.

(3) (a) No person who is eligible for health care benefits under any federal or state program providing financial assistance or preventive and rehabilitative social services shall be eligible under the plan.

(b) No person who is covered under the plan and who terminates coverage shall be again eligible for coverage unless twelve (12) months have elapsed since the coverage was terminated. The twelve (12) month waiting period shall not apply to dependents who had coverage under the policy of the person terminating coverage.

(c) No person on whose behalf the plan has paid out one million dollars ($1,000,000) in covered benefits shall be eligible for coverage under the plan. However, upon application to the board, the individual may purchase, at an actuarially justified rate, additional coverage through the plan.

(d) The coverage of any person who ceases to meet the eligibility requirements of this section may be terminated at the end of the policy period, for which the necessary premiums have been paid.

(e) No inmate incarcerated in any state penal institution or confined to any narcotic detention, treatment, or rehabilitation facility shall be eligible for coverage under the plan, except that this exclusion shall not apply to any eligible individual.

(4) The coverage of any person shall cease:

(a) On the date that a person is no longer a resident of the state;

(b) On the date that a person requests the coverage to end;

(c) Upon the death of the covered person; or

(d) On the date that any law of the Commonwealth requires cancellation of the policy.

(5) No person who has paid premiums under the plan shall be terminated without cause. Any person shall have the opportunity to appeal any cancellation or adverse action through the grievance procedure outlined in Section 17 of this Act.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Establish administrative and accounting procedures for the operation of the plan, prepare an annual budget, and

issue an annual report on board operations for submission to the Department of Insurance and the Auditor of Public Accounts;

(2) Establish procedures under which applicants and participants in the plan shall have grievances reviewed by an impartial body and reported to the board:

(a) All grievances presented to the board shall be in writing;

(b) The board shall respond in writing to all grievances within thirty (30) days of receipt; and

(c) Written responses to grievances shall include the reason for approval or denial and the remedies available for the aggrieved individual.

(3) Select and continuously monitor the performance of an administering insurer in accordance with Section 19 of this Act;

(4) Require that all policy forms issued by the board conform to nationally recognized uniform claim forms developed by the board. The forms shall be approved by the commissioner;

(5) Develop a program to publicize the existence of the plan, eligibility requirements of the plan, and the procedures for enrollment in the plan, and to maintain public awareness of the plan; and

(6) Establish and update annually provider reimbursement rates that assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population. The board shall not authorize contracts that allow health care providers to bill insureds in the plan for services covered and authorized under the plan in excess of that amount.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Exercise powers granted to insurers under this chapter; and

(2) Sue or be sued, except that no member of the board shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of the board.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board shall select an administering insurer, through a competitive bidding process in accordance with KRS Chapter 45A, to administer the plan. The administering insurer shall be either an insurer or third party administrator. The board shall evaluate the bids submitted under this subsection based on criteria established by the board, which criteria shall include, but not be limited to, the following:

(a) The administering insurer's proven ability to handle health insurance;

(b) The efficiency of the administering insurer's medical claims-paying procedures;

(c) An estimate of total charges for administering the plan;

(d) The administering insurer's ability to administer the plan in a cost-efficient manner; and

(e) The ability to supply accurate financial reports as required by the board.

(2) The administering insurer may serve for a period of three (3) years. At least one (1) year prior to the expiration of each three (3) year period of service by an administering insurer, the board shall invite all insurers, including the current administering insurer, to submit bids to serve as the administering insurer for the succeeding three (3) year period. The selection of the administering insurer for the succeeding three (3) year period shall be made at least nine (9) months prior to the end of the current three (3) year period, and the board shall provide for an appropriate transition between the current administering insurer and its successor for a period of not fewer than three (3) months.

(3) The administering insurer shall:

(a) Perform all eligibility and administrative claims-payment functions relating to the plan;

(b) Pay an agent's referral fee as established by the board to each agent who refers an applicant to the plan, if the applicant is accepted. The selling or marketing of the plan shall not be limited to the administering insurer or its agents. The referral fees shall be paid by the administering insurer from moneys received as premiums for the plan;

(c) Establish a premium billing procedure for collection of premiums from persons insured under the plan;

(d) Perform all necessary functions to assure timely payment of benefits to covered persons under the plan, including, but not limited to, the following:

1. Making available information relating to the proper manner of submitting a claim for benefits under the plan and distributing forms upon which submissions shall be made. Claims may be submitted electronically;

2. Evaluating the eligibility of each claim for payment under the plan; and

3. Notifying each claimant within thirty (30) days after receiving a properly completed and executed proof of loss whether the claim is accepted, rejected, or compromised;

(e) Submit regular reports to the board regarding the operation and financial condition of the plan. The frequency, content, and form of the reports shall be determined by the board. Financial condition shall be reported at least monthly to the board; and

(f) Following the close of each calendar year, determine net premiums, reinsurance premiums less administrative expenses allowance, the expense of administration pertaining to the reinsurance operations of the plan, and the incurred losses for the year, and report this information to the board and to the commissioner.

(4) (a) The administering insurer shall be paid, as provided in the contract of the plan, for its direct and indirect expenses in administering the plan. The amount paid under this paragraph shall not exceed twenty percent (20%) of the premium over the life of the contract.

(b) As used in this subsection, the term "direct and indirect expenses" includes the portion of the audited administrative costs, printing expenses, claims administration expenses, management expenses, building overhead expenses, and other actual operating and administrative expenses of the administering insurer that are approved by the board as allocable to the administration of the plan and included in the bid specifications.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Following the close of each fiscal year, the plan administrator shall determine the net premiums, which shall be total premiums less administrative expense allowances, the plan expenses of administration, and the incurred losses for the year, taking into account investment income and other appropriate gains and losses, and shall report the information to the board.

(2) The board may revise the fixed schedule of benefits and cost containment features provided under the plan as necessary to ensure that the plan maintains adequate resources for continued operation.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If the coverage provided by the plan is directly insured by the plan, the policies shall be administered through the administering insurer.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) The plan shall offer three (3) health benefit plans to plan participants similar to the health benefit plans existing at the time of the effective date of this Act. Initially, one (1) plan shall be the standard high plan in effect on the effective date of this Act. Health benefit plans shall be offered with high, medium, and low coverage options.

(b) Plans shall be filed with and approved by the commissioner. At least one (1) plan shall be offered in a traditional fee-for-service form and, in areas where managed care plans are available, at least one (1) plan shall be offered in a managed care form.

(c) The board shall provide some form of utilization review and case management on indemnity plans. The board shall periodically compare health benefit plans in the Kentucky comprehensive health insurance plan to health benefit plans in the marketplace.

(d) Health benefit plans may be amended or replaced as determined by the board and shall be filed with and approved by the commissioner.

(e) Any person whose health insurance is involuntarily terminated for any reason other than a factor described in subsection (2)(a), (b), and (c) of Section 5 of this Act may apply for coverage under the plan. If the coverage is applied for within sixty-three (63) days after the involuntary termination, and if premiums are paid for the first month of coverage after issuance, the effective date of the coverage shall be the date of the application or date of termination of the previous coverage, whichever is later.

(f) The plan shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue under the same or a different contract.

(g) The plan shall impose pre-existing condition standards as allowed health benefit plans under Section 4 of this Act.

(h) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, and by all hospital and medical expense benefits paid or payable under any workers' compensation coverage, basic or added reparation benefits as defined in KRS 304.39-020 or any med-pay provisions of a liability insurance policy and by any hospital or medical benefits paid or payable under or provided under any state or federal law or program except Medicaid. The plan shall have a cause of action against an eligible person for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this subsection.

(2) (a) The plan shall offer insurance coverage provided for in subsection (1) of this section up to a lifetime limit of one million dollars ($1,000,000) per covered individual. The maximum limit under this paragraph shall not be altered by the board, and no actuarially equivalent benefit may be substituted by the board.

(b) The schedule of premiums and deductibles shall be established by the board.

(c) Rates for plan coverage shall be determined as follows:

1. For persons who had previous health insurance coverage and the previous coverage was continuous for the twelve (12) months immediately preceding a date sixty-three (63) days prior to application to the plan, the rates for plan coverage shall be no more than one hundred thirty-five percent (135%) of rates established as applicable for individual standard risks.

2. For persons without previous continuous coverage as set out in subparagraph 1. of this paragraph, the rates for plan coverage shall be no more than one hundred fifty percent (150%) of rates established as applicable for individual standard risks.

3. Rates for supplemental policies offered by the plan shall not exceed the rate for the standard risk if the service covered by the supplemental policy is not related to any condition arising out of the covered person's medical condition.

(d) Separate schedules of premium rates based on age and gender may apply for individual risks.

(e) Coverage may provide for reasonable copayments for all benefits or services.

(f) Rates shall be subject to approval by the commissioner.

(g) Standard risk rates for coverages issued by the plan shall be established annually by the board, subject to the approval of the commissioner of insurance, using reasonable actuarial techniques, a statistically valid sampling of insurers in the individual market, and shall reflect anticipated experiences and expenses of coverage for standard risks. Initial rates for plan coverage shall not be less than one hundred twenty-five percent (125%) of rates established as applicable for individual standard risks.

(h) The board shall have a cause of action against a participant for any benefits paid to a participant that should not have been claimed or recognized as claims because of other insurance, or because otherwise not covered.

(i) The plan may offer added benefits, totally paid by the recipient, at rates established by the insurer.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky comprehensive health insurance plan fund as a special fund in the State Treasury. All funds paid to or held by the fund shall be held in trust for the use and benefit of the fund and shall not lapse. The fund may receive state appropriations, gifts, amounts recovered by the fund through legal actions, premium refunds collected under Section 8 of this Act, risk adjustment collections under Section 27 of this Act, tax receipts under Section 24 of this Act, and grants and shall include premiums and earnings from moneys in the fund. All expense and revenue transactions of the fund shall be posted to the state accounting and reporting system (STARS), and its successors.

(2) If premiums or other receipts exceed the amount required for the operation of the plan, including actual losses and administrative expenses of the plan, the board shall direct that the excess be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095, or used to offset future losses or to reduce plan premiums. In this subsection, "future losses" includes reserves for incurred but not reported claims.

(3) For the purposes of this section, a deficit shall be incurred when anticipated costs, losses, and incurred but not reported claims expenses exceed anticipated income.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums in excess of the premium taxes and retaliatory taxes collected for the calendar year 1997 shall be remitted to the board by the Revenue Cabinet and used for the benefit of the plan.

SECTION 25. A NEW SECTION OF SUBTITLE 49 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The plan and the board shall be exempt from all taxes levied by the state or any of its subdivisions.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the regular session of the General Assembly in the year 2000, sixty (60) days prior to that session and each subsequent regular session of the General Assembly, the commissioner, after providing an opportunity for the board of directors of the plan to review the report, shall submit a written report to the Legislative Research Commission. The report shall contain an evaluation of the plan, an evaluation of issues concerning high-cost individuals, and recommendations for establishing alternative means of coverage for those individuals in addition to, or as an alternative to, the Kentucky comprehensive health insurance plan. In order to determine the effectiveness of the plan in providing access and affordable insurance to high-cost individuals, the commissioner shall collect data to determine:

(a) The number of high-cost individuals enrolled in the plan;

(b) The reasons that individuals enrolled in the plan;

(c) Whether the enrollees had prior coverage in any plan during the preceding twelve (12) months and the average premium cost for that coverage; and

(d) The reasons that any plan enrollees terminated coverage in the plan.

(2) Beginning no later than January 1, 1999, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the plan, and the costs of the audit shall be borne by the plan. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the Department of Insurance.

Section 27. KRS 304.17A-130 is amended to read as follows:

(1) The ***commissioner of the*** Department of Insurance shall ***establish***[~~implement the administrative regulations promulgated by the Kentucky Health Policy Board for the establishment of~~] a risk adjustment process to be used in ***collecting and distributing funds from all insurers doing health insurance business in Kentucky for the purpose of*** equalizing risk between insurers ***and***[~~which participate within and outside of~~] the Kentucky ***comprehensive health insurance plan***[~~Health Purchasing Alliance~~].

(2) The risk adjustment process shall[~~ at minimum~~] be based on ***a percentage of health insurance premiums written during the assessment period and shall be designed to produce an assessment in an amount sufficient to offset the***[~~gender, retiree status, continuation status, and medical condition information which represent the relative risk of individuals participating with various insurers. The risk adjustment process is not intended to, and shall not, neutralize cost variations among insurers based on efficiency, ability to manage health costs and patient care, and the administration of policy provisions. The process shall not base adjustment for insurers on their individual premiums, administrative expenses, claims, or use of health care services. Preset amounts shall be established to reflect the demographic and~~] medical risk characteristics ***and costs*** of individuals enrolled ***in and other liabilities of the Kentucky comprehensive health insurance plan. This assessment when added to the tax revenue paid in the plan under Section 24 of this Act shall not exceed the anticipated losses and administrative expenses of the fund.***[~~by insurers.~~

~~(3)~~]The risk adjustment ***for the calendar year 1998***[~~process~~] shall be ***designed to produce an assessment in an amount not to exceed the amount collected under the administrative regulation promulgated by the Kentucky Health Policy Board for the twelve (12) month period immediately preceding the effective date of this Act. The percentage rate used to determine the assessment in 1999 and each calendar year thereafter shall not exceed the percentage rate used to determine the assessment in 1998.***

(3) Beginning in calendar year 1998, and every calendar year thereafter, the commissioner shall assess the insurers each calendar year based upon the percentage of health insurance premiums written during the assessment period, subject to the percentage limitation established in subsection (2) of this section.

(4) On or before March 31 of 1999, and each March 31 thereafter, the board shall certify to the commissioner the balance of funds in the Kentucky comprehensive health insurance plan as of the December 31 preceding. If the certification indicates the plan has a deficit as defined in Section 23 of this Act, the commissioner shall impose one (1) additional assessment against the insurers based on the percentage of health insurance premiums written during the assessment period, subject to the percentage limitation established in subsection (2) of this section, provided that the total amount generated from the additional assessment in any calendar year may not exceed the amount

generated from the assessment imposed under subsection (3) of this section. In no event shall the assessment required by this subsection produce an amount in excess of the projected deficit[~~administered by the department so that the process can be applied on a marketwide basis. All insurers shall submit information designated by the department as necessary to administer the risk adjustment process. All insurers shall contribute on an annual basis a preset amount for each person covered toward the establishment and administration of the risk adjustment process. Insurers shall receive from, or contribute amounts to, the department based on the insurer's relative risk profile as determined by the risk adjustment process~~].

(5)[~~(4)~~] *Beginning with the calendar year 2000, the risk adjustment process established in subsection (2) of this section shall collect an amount on a prospective basis without the expectation of additional general fund appropriations. Any general fund appropriations remaining in the fund on July 1, 2000, shall lapse to the general fund.*

(6) The risk adjustment process shall be *administered by*[~~established by no later than April 1, 1995.~~] the department*. All insurers shall submit information designated by the department as necessary to administer the risk adjustment process. Insurers shall contribute amounts to the Kentucky comprehensive health insurance plan as determined by*[~~may authorize one (1) or more pilot projects as part of an ongoing reevaluation and refinement of~~] the risk adjustment process.

(7) Insurers paying an assessment may include in any health insurance rate filing assessments paid as provided in Section 8 of this Act.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A person who is not a state employee but who on the effective date of this Act is covered by the self-insured plan available for state employees under KRS 18A.2251 or KRS 18A.2281 shall be allowed to renew the coverage. No coverage offered to commercial small groups under KRS 18A.2281 shall be renewed after the effective date of this Act.

(2) Health benefit plans issued to persons under the state employee health care buy-in as set out in KRS 18A.2251 and that are in effect on the effective date of this Act shall be renewed or replaced under the same terms and conditions as those for state employees. These policies shall be renewed or replaced after the effective date of this Act at a premium rate as follows:

(a) For the first renewal, one hundred seven percent (107%) of the state employee rate;

(b) For the second renewal, one hundred fourteen percent (114%) of the state employee rate;

(c) For the third renewal, one hundred twenty-one percent (121%) of the state employee rate;

(d) For the fourth renewal, one hundred twenty-eight percent (128%) of the state employee rate; and

(e) For the fifth and subsequent renewal, one hundred thirty-five percent (135%) of the state employee rate.

(3) Health benefit plans issued to persons who are not state employees under KRS 18A.2281 and that are in effect on the effective date of this Act shall be renewed or replaced at premium rates determined as set out in Section 9 of this Act. Beginning one hundred eighty (180) days after the commissioner certifies to the Department of Personnel that the individual insurance market has become competitive, persons who are not state employees covered under KRS 18A.2281 shall not be allowed to renew such policies.

(4) The Department of Personnel shall report to the board of the Kentucky comprehensive health insurance plan, the commissioner of the Department of Insurance, and the Legislative Research Commission on a quarterly basis the following information related to persons who are not state employees but who are covered under KRS 18A.2281:

(a) The amount of premiums paid;

(b) The amount of claims paid;

(c) The deficit or surplus created by the difference in the premium and claims; and

(d) Any other information required by the commissioner of the Department of Insurance to carry out this section. The report shall be submitted within ninety (90) days after the end of the calendar quarter. The first report shall be due within ninety (90) days after March 1, 1998, for the months of January, February, and March, 1998.

(5) Any surplus reported in subsection (4) of this section by the Department of Personnel shall be maintained by the department to offset any future deficits and such funds shall not lapse. The commissioner of the Department of Insurance may cause the amount of the deficit to be paid to the Department of Personnel from the funds of the Kentucky Comprehensive Health Insurance Plan.

(6) Insurers who issued health benefit plans to persons under the state employee health care buy-in as set out in KRS 18A.2251 shall report to the board of the Kentucky Comprehensive Health Insurance Plan, the commissioner of the

Department of Insurance, and the Legislative Research Commission on a quarterly basis the following information related to persons who are covered under KRS 18A.2251:

(a) The amount of premiums paid;

(b) The amount of claims paid;

(c) The deficit or surplus created by the difference in the premium and claims; and

(d) Any other information required by the commissioner of the Department of Insurance to carry out this section.

(7) The reports made under subsections (4) and (6) of this section shall be submitted within ninety (90) days after the end of the calendar quarters. The first report shall be due within ninety (90) days after March 1, 1998, for the months of January, February, and March, 1998. The commissioner of the Department of Insurance may cause the amount of any deficit to be paid to the Department of Personnel or to the insurers from the funds of the Kentucky Comprehensive Health Insurance Plan.

(8) A person other than a state employee who fails to renew a policy under this section shall no longer be eligible to purchase the state employee plan.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 29 to 42 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child.

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Experimental treatment" means services or supplies, including treatments, procedures, hospitalizations, drugs, biological products or medical devices, which a peer review panel determines are not of proven benefit for the particular diagnosis or treatment of the covered person's particular condition, or not generally recognized by the medical community as effective or appropriate for the particular diagnosis or treatment of the covered person's particular condition, or provided or performed in special settings for research purposes or under a controlled environment or clinical protocol. Unless otherwise required by law with respect to drugs that have been prescribed for the treatment of a type of cancer for which the drug has not been approved by the United States Food and Drug Administration, the plan shall not cover any services or supplies including treatment, procedures, drugs, biological products, or medical devices or any hospitalization in connection with experimental or investigational services or supplies. The plan shall also not cover any technology or any hospitalization in connection with that technology if that technology is obsolete or ineffective and is not used generally by the medical community for the particular diagnosis or treatment of the covered person's particular condition. Governmental approval of a technology is not necessarily sufficient to render it of proven benefit or appropriate or effective for a particular diagnosis or treatment of the particular condition as provided in this subsection. The plan shall apply the following five (5) criteria in determining whether services or supplies are experimental or investigational:

(a) Any medical device, drug, or biological product shall have received final approval to market by the United States Food and Drug Administration (FDA) for the particular diagnosis or condition. Any other approval granted as an interim step in the FDA regulatory process, such as an investigational device exemption or an investigational new drug exemption, is not sufficient. Once FDA approval has been granted for a particular diagnosis or condition, use of the medical device, drug, or biological product for another diagnosis or

condition requires that one (1) or more of the following established reference compendia: the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopeia Drug Information, recognize the usage as appropriate medical treatment. As an alternative to this recognition in one (1) or more of the compendia, the usage of the drug shall be recognized as appropriate if it is recommended by a clinical study and recommended by a review article in a major peer-reviewed professional journal. A medical device, drug, or biological product that meets the tests in this paragraph shall not be considered experimental or investigational. Any drug that the FDA has determined to be contraindicated for the specific treatment for which the drug has been prescribed shall be considered experimental or investigational;

(b) Conclusive evidence from the published peer-review medical literature shall exist that the technology has a definite positive effect on health outcome; this evidence shall include well-designed investigations that have been reproduced by nonaffiliated authoritative sources, with measurable results, backed up by the positive endorsements of national medical bodies or panels regarding scientific efficacy and rationale;

(c) Demonstrated evidence as reflected in the published peer-review medical literature shall exist that over time the technology leads to improvement in health outcomes, such as the beneficial effects outweigh any harmful effects;

(d) Proof as reflected in the published peer-reviewed medical literature shall exist that the technology is at least as effective in improving health outcomes as established technology, or is usable in appropriate clinical contexts in which established technology is not employable; and

(e) Proof as reflected in the published peer-reviewed medical literature shall exist that improvements in health outcomes, as defined in paragraph (c) of this subsection, is possible in standard conditions of medical practice, outside clinical investigatory settings;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health insurance policy" means "health benefit plan" as defined in Section 1 of this Act;

(8) "Insurer" has the meaning provided in Section 1 of this Act;

(9) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(10) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(11) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(12) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(13) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 30 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of

nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional

state licensing board.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

(c) Upon request of any enrollee, a managed care plan shall inform that enrollee in writing of any financial arrangements between the plan and prescription drug manufacturers if those arrangements include a rebate, incentive, or bonus for inclusion of a particular drug product on the plan's formulary.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, a provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the provider's approval.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A managed care plan that denies coverage for experimental services, including treatments, procedures, drugs, or devices for an enrollee, shall provide the enrollee with a denial letter within twenty (20) working days of the submitted request for the coverage. The letter shall include:

(1) The name and title of the person making the decision;

(2) A statement setting forth the specific medical and scientific reasons for denying coverage;

(3) A description of alternative treatment, services, or supplies covered by the plan, if any; and

(4) A copy of the plan's grievance and appeal procedure.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a

contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by an independent practicing practitioner as defined in Section 1(11) of this Act, who is of the same profession and in the same scope of practice as the provider rendering the medical care benefit or health care service in question;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state.

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements.

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history.

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information from a patient's record as

is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization of mental health and chemical dependency health services to be provided to the patient, and for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific consent to the redisclosure.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer issuer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 41. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 29 to 42 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 29 to 42 of this Act.

SECTION 42. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after January 1, 1998, unless it and the insurer meet the requirements of Sections 29 to 42 of this Act.

SECTION 43. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

  (a) All assessments placed on insurers under Section 27 of this Act;

  (b) All rating restrictions placed on employer-organized associations under Section 10 of this Act;

  (c) All rate review requirements placed on insurers under this subtitle;

  (d) All data collection requirements placed on insurers under this subtitle; and

  (e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

SECTION 44. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by March 30 to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

  (a) Total cost per health and medical service per insured group per month;

1. Cost paid by insurer;

2. Cost paid by insured; and

(b) Percentage of insured who received each service.

SECTION 45. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical care, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this Act, in the General Assembly, a sponsor of a bill and any member proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates before final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee.

SECTION 46. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the department a consumer protection and education division which shall include an office of ombudsman.

(2) The commissioner shall appoint appropriate staff which shall include, at a minimum, one (1) director, three (3) enforcement officers, two (2) persons for the office of ombudsman, and four (4) administrative support staff.

SECTION 47. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person shall, in this Commonwealth be, act as, or hold itself out as a purchasing cooperative unless it holds a certificate of filing from the commissioner. Each purchasing cooperative that seeks to offer services shall first be certified by the commissioner. To qualify as a purchasing cooperative an applicant shall submit information acceptable to the commissioner in accordance with administrative regulations promulgated by the commissioner. Each purchasing cooperative shall be subject to Subtitle 12 of this chapter to the extent applicable and not in conflict with the expressed provisions of this subtitle.

Section 48. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer[~~ as defined in KRS 304.17A-100~~], agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) *It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky comprehensive health insurance plan or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.*

(4) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under Section 27 of this Act. As an alternative, the commissioner may levy a forfeiture on any member insurer that fails to pay the assessment when due. The forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(5) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

Section 49. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof,

only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 50. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.[

~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed-issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~] If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 51. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to ***any rates filed under Subtitle 17A of this chapter.***[~~ standard health care benefit plans~~

~~established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 52. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 3 -- Authorization of Insurers and General Requirements;
(4) Subtitle 4 -- Fees and Taxes;
(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;
(6) Subtitle 7 -- Investments;
(7) Subtitle 12 -- Trade Practices and Frauds;
(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;
(9) Subtitle 17A -- Health Benefit Plans;
(10)[~~ Subtitle 18 -- KRS 304.18-050;~~
~~(11)~~] Subtitle 25 -- Continuity of Management;
(11)[~~(12)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(12)[~~(13)~~] Subtitle 37 -- Insurance Holding Company Systems; and
(13)[~~(14)~~] Subtitle 99 -- Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

Section 53. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

(a) The design of the standard health benefit ***plan***[~~plans pursuant to KRS 304.17A-160~~];

(b) The rate-filing process for all health benefit plans;

(c)[~~ The definition of high-risk conditions;~~

~~(d)~~] The administrative regulations concerning this subtitle to be promulgated by the department; and

(d)[~~(e)~~]Other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) ***No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under subsection (2) of Section 15 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.***

(6) For each calendar year that the Kentucky comprehensive health insurance plan is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section[~~The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner~~].

Section 54. KRS 304.17A-145 is amended to read as follows:

(1) A health benefit plan[~~, as defined in KRS 304.17A-100,~~] issued or renewed on or after July 15, 1996, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a health benefit plan if the health benefit plan authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of health benefit plans in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Section 55. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) [~~(a)~~]"Health benefit plan" ***has the meaning provided in Section 1 of this Act***[~~means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard and supplemental health benefit plan as established in KRS 304.17A-160, which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.~~

~~(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, or conversion policies for group health policies existing on January 1, 1994, if the board determines that~~

~~the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160]~~.

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" means any entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services.

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

Section 56. KRS 304.38-050 is amended to read as follows:

(1) No health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, or the schedule of fees or other periodic charges to be paid by enrollees, until a copy of the form has been filed with and approved by the commissioner. Each form shall contain a complete and clear statement of:

(a) The health care services to which the enrollee is entitled;

(b) Any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of health care services.

Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that the charges or fees are not excessive, inadequate, or unfairly discriminatory.

(2) At the expiration of sixty (60) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the sixty (60) day waiting period shall begin anew after the close of the hearing. Approval of the form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove the form by giving notice to the insurer of the extension before expiration of the initial sixty (60) day period. At the expiration of the period as so extended, and in the absence of the prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may at any time withdraw the approval.

(3) This section shall not apply to rate filings made under Subtitle 17A of this chapter.

Section 57. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits,[~~ motor vehicle health insurance benefits,~~] and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;
2. Health care quality and outcomes;
3. Health care providers and health services;
4. Health insurance costs; and
5. The cost of health benefits covered by[~~ motor vehicle insurance and~~] workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) Appoint a permanent advisory committee to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published.

(3)[~~ All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:~~

~~(a) Total premiums paid;~~

~~(b) Total cost of claims filed and paid;~~

~~(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;~~

~~(d) Total policies canceled by type and the aggregate reasons therefor;~~

~~(e) List of total health and medical services paid for, grouped by types of services and costs:~~

~~1. Total cost per health and medical service per insured group per month;~~
  ~~a. Cost paid by insurer;~~
  ~~b. Cost paid by insured; and~~
~~2. Percentage of insureds who received each service.~~

~~If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.~~

~~(4)~~] The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 58. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281.

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) [~~(a) "Mandatory alliance member" means:~~

~~1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to~~

~~18A.229;~~

~~2. Elected and salaried employees of local school districts;~~

~~3. Employees of local and district health departments;~~

~~4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and~~

~~5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:~~

~~a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and~~

~~b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.~~

~~(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.~~

~~(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.~~

~~(18)~~]"Medical outcomes" means a change in an individual's health status after the provision of health services.

(18)[~~(19)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(19)[~~(20)~~] "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(20)[~~(21)~~] "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(21)[~~(22)~~] "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(22)[~~(23)~~] "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts***; or***

(f) Any person for whom the Commonwealth provides health insurance under KRS 18A.225 to 18A.229; or

(g) Elected and salaried employees of local school districts; or

(h) Employees of local and district health departments; or

(i) Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department.

Section 59. KRS 304.12-085 is amended to read as follows:

(1) No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, or sex except that rates determined through valid actuarial tables shall not be violative of KRS Chapter 344.

(2) In the case of benefits consisting of medical care provided under, offered by, or in connection with a group or individual health plan, the plan or issuer may not deny, cancel, or refuse to renew the benefits or coverage, or vary the premiums, terms, or conditions for the benefits or coverage, for any participant or beneficiary under the plan:

(a) On the basis of a genetic test, for which symptoms have not manifested; or

(b) On the basis that the participant or beneficiary has requested or received genetic services.

(3) A group or individual health plan or insurer offering health insurance in connection with a plan may not request or require a participant or beneficiary to disclose to the plan or issuer any genetic test about the participant, beneficiary, or applicant.

(4) A group or individual health plan or a health insurance issuer offering health insurance coverage may not disclose any genetic test about a participant or beneficiary without prior authorization by the participant. The authorization is required for each disclosure.

Section 60. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically-related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the ***amortization*** cost ***per year*** is less than six hundred thousand dollars ($600,000) and the ***provider gives notice of intent to provide the*** services~~[are in place]~~ by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are ***provided on site***~~[in place]~~ as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

- (a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts unless the physician's office meets the criteria set forth in KRS 216B.015(3);
- (b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015(3), except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;
- (c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;
- (d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;
- (e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and
- (f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

(4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.

(5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.

(6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those

licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.

(7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

SECTION 61. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the secretary of the Personnel Cabinet, with the approval of the commissioner of the Department of Insurance, is authorized to contract with insurers on behalf of state employees pursuant to the provisions of KRS 18A.225 through 18A.229.

SECTION 62. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the 1998 premium rates for the health benefit plan provided for in KRS 18A.2281 shall be the same as the rates in effect for calendar year 1997 plus a composite increase of five percent (5%).

Section 63. The following KRS sections are repealed:

304.17-380 Filing of rates.

304.17-383 Procedure for approval of rate filing containing increase.

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 64. Effective January 1, 1999, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans -- Certification.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.

304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

304.38-080 Information to enrollees -- Open enrollment.

Section 65. To carry out the purposes of this Act, there is appropriated to the Kentucky comprehensive health insurance plan fund out of the general fund in the State Treasury the sum of five million dollars ($5,000,000) for fiscal year 1997-1998. The Governor shall include in the budget recommendation for the executive branch and in the draft branch budget bill for the executive branch submitted to the 1998 regular session of the General Assembly for the biennium period beginning July 1, 1998, and ending June 30, 2000, a recommendation for appropriations to the Kentucky comprehensive health insurance plan fund. It is the intent of the General Assembly that any appropriation after the initial appropriation of five million dollars ($5,000,000) shall not be accessed until the commissioner has utilized the funds generated through the initial assessment against insurers and any tax revenues collected under Section 24 of this Act in each calendar year.

Section 66. To carry out the purposes of Section 62 of this Act, there is appropriated to the State employee benefit fund out of the general fund in the State Treasury the sum of fifteen million dollars ($15,000,000) for fiscal year 1997-98.

Section 67. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth, and premium rates have increased, which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Calendar

SB 1 ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committee

The Committee on Rules reported that **SB 1** has been posted for passage in the Orders of the Day for October 10, 1997.

Motions, Petitions and Communications

Representative Graham moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 16**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in memory of Edmund Taylor Van Hoose. The House of Representatives joins Representative Gippy Graham in expressing its deepest sympathy to all who share in the loss on the passing of this outstanding native of Woodford County, devoted son of the late Alonzo and Emma Van Hoose, beloved father of Larry and Ed Van Hoose, cherished brother of Ernestine Jacobs, adored grandfather of three and great-grandfather of four. This fine Kentucky gentleman worked in construction for most of his life and was employed as warehouse foreman for Chernin's Show Company in Chicago until his retirement in 1984. He served in recent years as doorkeeper for the Kentucky House of Representatives. We remember him on this day, not only for the valuable service he so ably rendered for this honorable body, but also for the goodness of his spirit and offer our sincere condolences to his family and friends. **Legislative Citation No. 16** was adopted without objection.

Representative Zimmerman moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Zimmerman moved the adoption of the following **HR 10**:

HR 10, A RESOLUTION adjourning the House of Representatives in honor of karate champion Kelsey Hughes.

WHEREAS, Kelsey Hughes is twelve years of age and is a straight-A student at North Oldham Middle School in Prospect, Kentucky; and

WHEREAS, Kelsey Hughes is the loving daughter of John and Joan Hughes; and

WHEREAS, Kelsey Hughes is a Green Belt in the Shoto Kan style of karate; and

WHEREAS, Kelsey Hughes captured the national title in Kata, or forms, and Kumite, fighting, at the National Karate Championship held in Akron, Ohio, the first week in August, 1997;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives proudly hails and salutes Kelsey Hughes upon the occasion of capturing the national title in Kata and Kumite at the National Karate Championship held in Akron, Ohio, the first week in August, 1997.

Section 2. The House of Representatives is pleased to recognize and encourage athletic excellence, and Kelsey Hughes best exemplifies the finest qualities so inherent in the youth of the Commonwealth of Kentucky, and we wish to her success in all future endeavors.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Kelsey Hughes.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative James Zimmerman for presentation to Kelsey Hughes.

There being no objection **HR 10** was adopted.

Representative Mason moved the adoption of the following **Legislative Citation No. 18**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the grievous death of LeRoy McCarty. Members of the House of Representatives do honor said individual and his devastated family, whose loss is irreplaceable. This prestigious body doth share in this phenomenal tragedy of both family and the community of Ashcamp where LeRoy McCarty was a loyal Democrat, UMWA member and a generous neighbor, demonstrated by his efforts on behalf of the Sycamore Fire Department, and offers the hope that LeRoy McCarty is serene beyond the cares and worries of this world and is now wearing that crown of jewels he so ardently deserved. The Kentucky House of Representatives doth hereby adjourn this ninth day of October, nineteen hundred and ninety-seven in memory of this extraordinary person who is cherished by many.

Legislative Citation No. 18 was adopted without objection.

Representative Colter moved the adoption of the following **Legislative Citation No. 21**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Ethel Morgan and extends sincerest expressions of sympathy to her loving husband of fifty-eight years, Sam Morgan; her devoted children, J.B., Jack, Carol, Judy and Carmolita; and her beloved sisters, grandchildren, and great-grandchildren for their immense loss. Ethel Morgan was a former employee of the Leslie County Board of Education, a faithful member of the Rockhouse Baptist Church and was a life-long resident of Leslie County. She will long be remembered and cherished by those whose fortune it was to have known her. The House of Representatives joins Representative Barbara White Colter in honoring the memory of this outstanding Kentucky citizen.

Legislative Citation No. 21 was adopted without objection.

Representative Marzian moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Marzian moved the adoption of the following **HR 11**:

HR 11, A RESOLUTION expressing intent to enact legislation during the 1998 Regular Session to allow for tax incentives for the purchase of long-term care insurance.

WHEREAS, Kentucky has close to 500,000 citizens who are age 65 or older, and that number is expected to double by year 2030; and

WHEREAS, the demographic tidal wave of aging and disabled Kentuckians accessing long-term care services poses tremendous financial risk to consumers and government programs alike; and

WHEREAS, two out of five Kentuckians will require nursing home care during their lives, at an annual cost of over $30,000; and

WHEREAS, seventy-five percent (75%) of patients in Kentucky nursing homes have exhausted their savings and other cash assets, and now depend on Medicaid to pay for their care; and

WHEREAS, private long-term care insurance will protect a consumer's personal assets and Kentucky's Medicaid program when the consumer needs to access home health care, nursing home care, or another level of long-term care services; and

WHEREAS, Kentucky tax incentives for the purchase of long-term care insurance would educate and encourage consumers to be financially self-sufficient in preparing for their long-term care needs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby expresses its intent to enact legislation during the 1998 Regular Session to allow for tax incentives for the purchase of long-term care insurance and requests that the Governor make provisions as such in the Governor's proposed 1999-2000 biennial budget.

There being no objection **HR 11** was adopted.

Representative Yonts moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Yonts moved the adoption of the following **Legislative Citation No. 19**. Agreed.

Honoring All Veterans with the Song "Thanks to Them" Whereas, Veterans Day will soon be celebrated in Kentucky; and Whereas, Kentucky has provided sons and daughters to fight America's battles abroad in the finest tradition of the U. S. military; and Whereas, Kentucky still has living members of World War I and many who fought in World War II, Korea, Vietnam, Desert Storm, and Bosnia; and Whereas, Kentuckians presently guard our freedoms by being on duty at all points of the world; and Whereas, there is no designated song which honors all Veterans--Past, Present, and Future; and Whereas, Vietnam Veteran, Jerry Hayes of Cypress Inn, Tennessee has written "Thanks to Them" as a tribute to all such veterans; now Therefore, the Kentucky House of Representatives joins with Representative Brent Yonts in honoring all Veterans--Past, Present, and Future -- by recognizing "Thanks to Them" as a song of honor and tribute to said Veterans--Past, Present, and Future--from Kentucky. **Legislative Citation No. 19** was adopted without objection.

Representative Yonts moved that a call of the roll be taken to show co-sponsors of **Legislative Citation No. 19.**

Roll call to show co-sponsors of **Legislative Citation No. 19**.--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Baugh, Bowling, Bratcher, Brown, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Coleman, Collins, Colter, Cox, Crall, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Johns, Kerr, Lee, Lile, Lovell, Marcotte, Maricle, Mason, McKee, Moberly, Murgatroyd, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Scott, Siler, Sims, Stacy, Stein, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman.

Representative Riggs moved the adoption of the following **Legislative Citation No. 22**. Agreed.

We hereby commend the members of the U.S. Coast Guard Marine Safety Office for their dedicated, selfless and heroic efforts when the Belle of Louisville, a state historical treasure, began taking on water and nearly sank. Under the leadership of Commander Bill Wagner, guardsmen worked around the clock to help secure the boat. Inasmuch as their rapid response and assessment not only helped to calm the situation but also to prevent harmful fuel spills and pollution, the members of the U.S. Coast Guard have earned the respect and gratitude of the Commonwealth of Kentucky. This honorable body joins Representative Steve Riggs in recognizing these outstanding citizens for their invaluable service to the community. **Legislative Citation No. 22** was adopted without objection.

Representative Cave moved the adoption of the following **Legislative Citation No. 23**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Georgetown Toyota Motor Manufacturing Kentucky Employees in recognition of their combined efforts, knowledge and insight that have resulted in the production of the Number One selling car in the United States for this sales year. The contribution that this group of employees has made to an increasingly healthy economic environment in the Commonwealth is greatly appreciated. The entire membership joins with Representative Stan Cave in saluting these employees for their outstanding commitment to excellence and quality. **Legislative Citation No. 23** was adopted without objection.

Representative Crimm moved the adoption of the following **Legislative Citation No. 15**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Bob and Ellen Strickler for working as volunteers with Kentucky Harvest and contributing to the betterment of the lives of their fellow citizens through such kindhearted efforts. Inasmuch as said recipients donated innumerable hours on behalf of those less fortunate, this honorable body is pleased to join with Representative Ron Crimm in offering accolades for those personal offerings that make a positive difference in the lives of others and in celebrating the generosity and commitment of these most honored recipients. **Legislative Citation No. 15** was adopted without objection.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on **Legislative Citation No. 19**. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for the filing of Floor Amendments. Agreed. Representative Stumbo moved that when the House does adjourn on this day, it does so by voice vote. Agreed. Representative Stumbo moved that when the House adjourns on this day, it does so until 10:00 a.m. Friday, October 10, 1997. Agreed.

Recess

Representative Stumbo moved that the House recess until 5:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess

Representative Stumbo moved that the House recess until 9:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to the House Committee Substitute to **SB 1**, by Representative Long:

On page 86, line 4, and continuing through page 89, line 3, by deleting Section 60 in its entirety; and

On page 89, line 4, by deleting "61" and inserting in lieu thereof "60"; and

On page 89, line 10, by deleting "62" and inserting in lieu thereof "61"; and

On page 89, line 16, by deleting "63" and inserting in lieu thereof "62"; and

On page 89, line 22, by deleting "64" and inserting in lieu thereof "63"; and

On page 90, line 12, by deleting "65" and inserting in lieu thereof "64"; and

On page 90, line 23, by deleting "66" and inserting in lieu thereof "65", and by deleting "62" and inserting "61" in lieu thereof; and

On page 90, line 26, by deleting "67" and inserting in lieu thereof "66".

Floor Amendment No. 2 to the House Committee Substitute to **SB 1**, by Representative Crenshaw:

On page 36, line 18, delete the number "***(1)***"; and

On page 36, line 23, delete lines 23 through 25 in their entirety.

Floor Amendment No. 3 to the House Committee Substitute to **SB 1**, by Representative Wayne:

On page 59, line 22, after the word "***question***", by inserting the following before the semicolon:

"***, except for mental health or substance abuse cases. For mental health or substance abuse cases, utilization management decisions shall be made by a mental health professional licensed in any state***"

Floor Amendment No. 4 to the House Committee Substitute to **SB 1**, by Representative Stein:

On page 11, line 16, after the word "***individual***", by inserting the following:

"***; however, the individual shall be able to purchase additional coverage through health insurers offering additional coverage***"; and

On page 11, line 16, and continuing through line 19, by deleting all new text beginning with the word "***The***" on line 16; and

On page 32, line 6, by deleting the word "***may***" and inserting "***shall be able to***" in lieu thereof; and

On page 32, lines 6 and 7, by deleting the words "***, at an actuarially justified rate,***"; and

On page 38, line 19, after the word "***individual***", by inserting the following:

"***; however, the individual shall be able to purchase additional coverage through the plan***"; and

On page 38, line 19, and continuing through line 21, by deleting all new text beginning with the word "***The***" on line 19.

Floor Amendment No. 5 to the House Committee Substitute to **SB 1**, by Representative Crenshaw:

On page 7, Between lines 24 and 25, Insert the following new subsection:

"***(3) Occupation shall not be treated as a pre-existing condition.***"; and

On page 8, Between lines 13 and 14, Insert the following new subsection:

"***(4) Occupation shall not be treated as a pre-existing condition.***".

Floor Amendment No. 6 to the House Committee Substitute to **SB 1**, by Representative Crenshaw:

On page 38, line 16, after the "***.***" by adding the following sentence:

"***Nothing in this paragraph shall be interpreted to limit, delay, or otherwise affect eligibility or benefits provided under KRS Chapter 342.***"

Floor Amendment No. 7 to the House Committee Substitute to **SB 1**, by Representative Nesler:

On page 9, line 19 after "***to***" insert "***the commissioner and to***"; and

On page 9, line 20 after "***least***" delete "***ninety (90)***" and insert "***one hundred and eighty (180)***".

Floor Amendment No. 8 to the House Committee Substitute to **SB 1**, by Representative Thomas:

On page 15, after line 9, by inserting:

"***(13) (a) No insurer shall exclude any part-time employee from a group health benefit plan made available by the employer to all full-time employees if the part-time employee has been employed by that employer for at least six (6) months and notifies the employer in writing during the enrollment period prior to the beginning of the policy period of the employee's desire to be covered by the health benefit plan. Nothing in this subsection shall require an employer to pay all or part of the premium for a part-time employee who requests coverage under the group health benefit plan.***

(b) For purposes of this subsection, "part-time employee" means a state employee or employee of a state

institution of higher education who works at least ten (10) hours per week for the employer."

Floor Amendment No. 9 to the House Committee Substitute to **SB 1**, by Representative Marzian:

On page 36, line 8, after the word "*exceed*", by deleting the words "*twenty percent (20%)*" and inserting "*ten percent (10%)*" in lieu thereof.

Floor Amendment No. 10 to the House Committee Substitute to **SB 1**, by Representative Gooch:

On page 7, line 5, by deleting "*(1)*"; and
On page 7, by deleting lines 12 through 15 in their entirety.

Floor Amendment No. 11 to the House Committee Substitute to **SB 1**, by Representative Coleman:

On page 41, Between line 25 and 26, Insert the following:

"*(2) All insurers shall report to the commissioner the name and address of each enrollee with a high-cost condition, as defined under Section 1 of this Act, who terminates or nonrenews coverage under the plan. The report shall be made within thirty (30) days of the enrollee's termination or nonrenewal. The commissioner shall collect data from the individuals to determine the reasons they terminated or failed to renew coverage including whether the individual subsequently obtained coverage under another private, commercial, or governmental plan or are without coverage.*"; and

On page 41, line 26, Renumber "*(2)*" as "*(3)*".

Floor Amendment No. 12 to the House Committee Substitute to **SB 1**, by Representative Coleman:

On page 26, between lines 13 and 14, by inserting the following new subsections:

"*(6) Each association that holds a certificate of filing from the commissioner shall retain ultimate financial responsibility for the obligations of the plan. The financial responsibility shall not be defeated or impaired by the organizational structure of the association or plan, regardless of whether the association or plan is organized as a corporation under KRS Chapter 271B, a cooperative corporation under KRS Chapter 272, a nonstock, nonprofit corporation under KRS Chapter 273, a professional service corporation under KRS Chapter 274, a limited liability company under KRS Chapter 275, or any other form of business similarly organized or constituted under Kentucky law or the laws of any other state.*

(7) Health benefit plans provided by an employer-organized association shall be made available only through employers who are bona fide members of the association.

(8) (a) Contract or third party administrators of a health benefit plan provided by an employer-organized association shall be licensed by the commissioner.

(b) The commissioner shall establish standards for the licensure of contract or third- party administrators of health benefit plans provided by an employer-organized association by the promulgation of administrative regulations pursuant to KRS Chapter 13A. These standards shall include, but not be limited to, minimum financial recordkeeping requirements, minimum requirements for the reporting of financial claims, contractual obligation information related to the sponsoring association, and standards of conduct in the performance of the administrator's duties.

(c) Contract or third-party administrators of a health benefit plan provided by an employer-organized association shall post a performance bond equal to fifty percent (50%) of the administrator's annual premium income from the plan as a condition of licensure.

(9) Each employer-organized association shall maintain an active life reserve and actuarially determined claim reserve pursuant to KRS 304.6-070."

Floor Amendment No. 13 to the House Committee Substitute to **SB 1**, by Representative Gooch:

On page 27, line 23, after the word "*policy,*", by inserting the words "*a long term care policy,*"; and
On page 85, line 16, after the word "*health*", by inserting the word "*benefit*"; and
On page 85, line 20, after the word "*test,*", by inserting the following:
"*as defined by the commissioner through administrative regulations,*"; and

On page 85, line 23, after the words "***individual health***", by inserting the word "***benefit***" and deleting the phrase "***or insurer offering health insurance in connection with a plan***"; and

On page 85, line 27, after the words "***individual health***", by inserting the word "***benefit***", and deleting the words "***or a health insurance issuer offering health insurance coverage***"; and

On page 86, between lines 3 and 4, by inserting the following new subsection:

"***(5) As used in this section, "health benefit plan" has the same meaning as in Section 1(10) of this Act.***"

Floor Amendment No. 14 to the House Committee Substitute to **SB 1**, by Representative Gray:

On page 15, line 22, Insert after "***shall***" the word "***simultaneously***"; and

On page 18, line 10, Insert after the word "commissioner" the words "***or as are presented by the Attorney General during any hearing held under this section***.".

Floor Amendment No. 15 to the House Committee Substitute to **SB 1**, by Representative Gooch:

On page 14, line 27, after the word "***quote***", by inserting the phrase "***or notice of denial***"; and

On page 15, line 1, after the word "***request***", by inserting the phrase "***that includes all materials reasonably necessary to assess the insurability of the applicant***".

Floor Amendment No. 16 to the House Committee Substitute to **SB 1**, by Representative Gray:

On page 15, after line 9, by inserting:

"***(13) (a) No insurer shall exclude any part-time employee from a group health benefit plan made available by the employer to all full-time employees if the part-time employee notifies the employer in writing during the enrollment period prior to the beginning of the policy period of the employee's desire to be covered by the health benefit plan. Nothing in this subsection shall require an employer to pay all or part of the premium for a part-time employee who requests coverage under the group health benefit plan.***

(b) For purposes of this subsection, "part-time employee" means an employee who works at least ten (10) hours per week for the employer.".

Floor Amendment No. 17 to the House Committee Substitute to **SB 1**, by Representative Marzian:

On page 19, line 27, by deleting the words "***thirty-five percent (35%)***" and inserting "***twenty-five percent (25%)***" in lieu thereof; and

On page 20, line 8, by deleting the words "***ten percent (10%)***" and inserting "***five percent (5%)***" in lieu thereof.

Floor Amendment No. 18 to the House Committee Substitute to **SB 1**, by Representative P. Clark:

On page 40, line 26, before the word "***All***" by inserting "***(1)***"; and

On page 40, after line 3 but before line 4 by inserting the following:

"***(2) Notwithstanding the provisions of KRS 141.010 to the contrary, for taxable years beginning after December 31, 1996, there shall be excluded from adjusted gross income computed under KRS 141.010(10), to the extent not already excluded from gross income under KRS 141.010(9), any amount paid to a health benefit plan which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer to a health benefit plan that are excluded pursuant to this subsection shall not be allowed as a deduction in computing the taxpayer's net income under KRS 141.010(11).***".

Floor Amendment No. 19 to the House Committee Substitute to **SB 1**, by Representative Hogancamp:

On page 40, line 26, before the word "***All***" by inserting "***(1)***"; and

On page, 41 after line 3 but before line 4 by inserting the following:

"***(2) Notwithstanding the provisions of KRS 141.010 to the contrary, for taxable years beginning after December 31, 1996, there shall be excluded from adjusted gross income computed under KRS 141.010(10), to the extent not***

already excluded from gross income under KRS 141.010(9), any amount paid to a health benefit plan or health care provider which constitutes medical care coverage or medical care expenses for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer to a health benefit plan or medical care expenses that are excluded pursuant to this subsection shall not be allowed as a deduction in computing the taxpayer's net income under KRS 141.010(11).".

Floor Amendment No. 20 to the House Committee Substitute to **SB 1**, by Representative Hogancamp:

On page 40, line 26, before the word "***All***" by inserting "***(1)***"; and

On page 40, after line 3 but before line 4 by inserting the following:

"***(2) Notwithstanding the provisions of KRS 141.010 to the contrary, for taxable years beginning after December 31, 1996, there shall be excluded from adjusted gross income computed under KRS 141.010(10), to the extent not already excluded from gross income under KRS 141.010(9), any amount paid to a health benefit plan which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer to a health benefit plan that are excluded pursuant to this subsection shall not be allowed as a deduction in computing the taxpayer's net income under KRS 141.010(11).***".

Floor Amendment No. 21 to the House Committee Substitute to **SB 1**, by Representative Gooch:

On page 59, lines 19 to 22, by deleting "***an independent practicing practitioner as defined in Section 1(11) of this Act, who is of the same profession and in the same scope of practice as the provider rendering the medical care benefit or health care service in question***" and inserting: "***a physician, except in the case of a service rendered by a chiropractor the decision shall be made by a chiropractor***".

Floor Amendment No. 22 to the House Committee Substitute to **SB 1**, by Representative Gooch:

On page 29, by deleting lines 22 to 27; and

On page 30, by deleting lines 1 and 2; and

On page 37, line 1, by deleting "***If***"; and

On page 37, line 1, by deleting "***is***" and inserting "***shall be***"; and

On page 37, after the comma by inserting "***and***"; and

On page 37, line 2, after "***insurer.***" by inserting "***The board may obtain stop loss coverage for the plan. In addition, the board shall evaluate and report to the General Assembly on the cost effectiveness and impact on the private insurance market of providing coverage to high risk individuals by indirectly insuring high risk individual policies issued by an insurer in the individual market or devising options for insurers to elect to provide health insurance coverage to high risk individuals on behalf of the board.***".

Floor Amendment No. 23 to the House Committee Substitute to **SB 1**, by Representative Napier:

On page 15, line 14, after "***Act***" by inserting "***by March 1, 1998,***"; and

On page 15, line 17, after the period, by inserting, "***If any insurer that ceased doing business in Kentucky fails to apply to the commissioner by March 1, 1998, to reenter Kentucky, the insurer shall wait a minimum of two (2) years to apply.***"

Floor Amendment No. 24 to the House Committee Substitute to **SB 1**, by Representative Cox:

On page 33, line between lines 25 and 26, By inserting the following:

"***(7) The board shall not include any benefit coverage for an abortion under any of the plans developed pursuant to Sections 13 to 27 of this Act.***"

Floor Amendment No. 25 to the House Committee Substitute to **SB 1**, by Representative Cox:

On page 33, line between lines 25 and 26, By inserting the following:

"***(7) The board shall not include any benefit coverage for a "dilation and extraction procedure" under any of the plans developed pursuant to Sections 13 to 27 of this Act.***"

Floor Amendment No. 26 to the House Committee Substitute to **SB 1**, by Representative Riner:

On page 3, line 21, By deleting "***Medicare supplement***"; and

On page 5, in between lines 24 and 25, By inserting the following:

"***(20) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the United States Social Security Act as amended or superseded***."; and

On page 5, in between lines 24 and 25, By inserting the following:

"***(21) "Medicare supplement policy" means a group or individual policy of (accident and sickness) insurance or a subscriber contract (of hospital and medical service associations) other than a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. sec. 1395 et seq.) or an issued policy under a demonstration project specified in 42 U.S.C. sec. 1395(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. Such term does not include:***

(a) A policy or contract of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) A policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:

1. Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

2. Has been maintained in good faith for purposes other than obtaining insurance; and

3. Has been in existence for at least two (2) years prior to the date of its initial offering of such policy or plan to its members.

On page 5, line 25, By deleting "***(20)***" and By inserting "***(22)***" in lieu thereof; and

On page 5, line 27, By deleting "***(21)***" and By inserting "***(23)***" in lieu thereof; and

On page 6, line 3, By deleting "***(22)***" and By inserting "***(24)***" in lieu thereof; and

On page 6, line 6, By deleting "***(23)***" and By inserting "***(25)***" in lieu thereof; and

On page 6, line 14, By deleting "***(24)***" and By inserting "***(26)***" in lieu thereof; and

On page 6, line 18, By deleting "***(25)***" and By inserting "***(27)***" in lieu thereof; and

On page 6, line 21, By deleting "***(26)***" and By inserting "***(28)***" in lieu thereof; and

On page 6, line 26, By deleting "***(27)***" and By inserting "***(29)***" in lieu thereof; and

On page 12, line 4, after the word "***sell***", By inserting the following: "***, including Medicare supplement policies***".

Floor Amendment No. 27 to the House Committee Substitute to **SB 1**, by Representative Riner:

On page 5, in between lines 24 and 25, By inserting the following:

"***(20) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the United States Social Security Act as amended or superseded***."; and

On page 5, line 25, By deleting "***(20)***" and By inserting "***(21)***" in lieu thereof; and

On page 5, line 27, By deleting "***(21)***" and By inserting "***(22)***" in lieu thereof; and

On page 6, line 3, By deleting "***(22)***" and By inserting "***(23)***" in lieu thereof; and

On page 6, line 6, By deleting "***(23)***" and By inserting "***(24)***" in lieu thereof; and

On page 6, line 14, By deleting "***(24)***" and By inserting "***(25)***" in lieu thereof; and

On page 6, line 18, By deleting "***(25)***" and By inserting "***(26)***" in lieu thereof; and

On page 6, line 21, By deleting "***(26)***" and By inserting "***(27)***" in lieu thereof; and

On page 6, line 26, By deleting "***(27)***" and By inserting "***(28)***" in lieu thereof.

On page 22, line 12, after the word "***area***", By inserting the following: "***, except for those individuals who are aged 50-64 and who are not eligible for Medicare, where the ratio of the highest rate factor to the lowest rate factor within a class of business for this group shall not exceed (3:1)***"; and

On page 26, line 8, after the word "***area***", By inserting the following: "***, except for those individuals who are aged 50-64***

and who are not eligible for Medicare, where the ratio of the highest rate factor to the lowest rate factor within a class of business for this age group shall not exceed (3:1)".

Floor Amendment No. 28 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 59, line 22, after the word "***question***", by inserting the following before the semicolon:

"***, except for mental health or substance abuse cases. For mental health or substance abuse cases, utilization management decisions shall be made by a mental health professional licensed in any state***".

Floor Amendment No. 29 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 32, after line 24 and before line 25, By inserting the following:

"***(6) Any person whose health insurance is terminated for any reason, including nonpayment of premium, may reapply for coverage under the provisions in Sections 13 through 27 of this Act under the following conditions:***

(a) The board has successfully reviewed all grievance responses presented by an impartial body as provided in Section 17 of this Act, and determines that reapplication is a remedy; or

(b) Six (6) months have elapsed since the original termination or cancellation of the policy.".

Floor Amendment No. 30 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 15, line 22, Insert after "***shall***" the word "***simultaneously***"; and

On page 18, line 10, Insert after the word "commissioner" the words "***or as are presented by the Attorney General during any hearing held under this section***.".

Floor Amendment No. 31 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 90, line 22, Insert after the words "calendar year" the following new language:

"In addition to the amounts already appropriated for fiscal year beginning July 1, 1997, and ending June 30, 1998, for the Office of the Attorney General to participate as a health insurance consumer intervenor under KRS 304.17A-095, there is appropriated out of the general fund to the Finance and Administration Cabinet to establish, as necessary government expenses, a pool of funds in the amount of three hundred thousand dollars ($300,000) in fiscal year 1997-98 to be used for expert witnesses if the Attorney General determines that a rate hearing is necessary. The Governor shall include in the budget recommendations for the executive branch and in the draft branch budget bill for the executive branch submitted to the 1998 regular session of the General Assembly for the biennium period beginning July 1, 1998, and ending June 30, 2000, a recommendation for appropriations to the Finance and Administration Cabinet for the purpose of personal services contracts with expert witnesses in rate hearings if the Attorney General determines that a rate hearing is necessary. The amount to be recommended shall be four hundred fifty thousand dollars ($450,000) out of the general fund for each fiscal year."

Floor Amendment No. 32, Title to the House Committee Substitute to **SB 1**, by Representative Hogancamp:

By amending the title to read as follows: AN ACT relating health care affordability within the health insurance and health delivery system, making an appropriation therefor, and declaring an emergency.

Floor Amendment No. 33 to the House Committee Substitute to **SB 1**, by Representative Anderson:

On page 44, line 4, after the word "***basis***" by deleting the remainder of the line in its entirety; and

On page 44, line 5, by deleting the line in its entirety; and

On page 44, line 6, by deleting "***1, 2000; shall lapse to the general fund***"; and

On page 90, by deleting lines 12 through 22 in their entirety, and by renumbering the sections that follow accordingly.

Floor Amendment No. 34 to the House Committee Substitute to **SB 1**, by Representative Anderson:

On page 40, line 26, before the word "***All***" by inserting "***(1)***"; and

On page 40, after line 3 but before line 4 by inserting the following:

"*(2) For taxable years beginning after December 31, 1997, there shall be allowed as a non-refundable credit against the tax imposed by KRS 141.020 an amount equal to:*

(a) Fifty percent (50%) of the health insurance premium paid by an individual receiving health insurance coverage in the Kentucky comprehensive health insurance plan.

(b) Twenty-five percent (25%) of the health insurance premium paid by an individual receiving health insurance coverage in the individual market.

(c) Fifteen percent (15%) of the health insurance premium paid by an individual receiving health insurance coverage as a small employer or as an employee of a small employer."; and

On page 44, line 4, after the word "*basis*" by deleting the remainder of the line in its entirety; and

On page 44, line 5, by deleting the line in its entirety; and

On page 44, line 6, by deleting "*1, 2000, shall lapse to the general fund*"; and

On page 90, by deleting lines 12 through 22 in their entirety, and by renumbering the sections that follow accordingly.

Floor Amendment No. 35 to the House Committee Substitute to **SB 1**, by Representative Anderson:

On page 15, after line 9, by inserting:

"*(13) (a) No insurer shall exclude any part-time employee from a group health benefit plan made available by an employer who employs ten (10) or more full-time employees if the part-time employee notifies the employer in writing during the enrollment period prior to the beginning of the policy period of the employee's desire to be covered by the health benefit plan. Nothing in this subsection shall require an employer to pay all or part of the premium for a part-time employee who requests coverage under the group health benefit plan.*

(b) For purposes of this subsection, "part-time employee" means an employee who works at least ten (10) hours per week for the employer."

Floor Amendment No. 36 to the House Committee Substitute to **SB 1**, by Representative Maricle:

On page 90, line 24, after the word "fund" the second time it appears by inserting the following; "lottery proceeds".

Floor Amendment No. 37 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 37, between lines 2 and 3, By inserting the following:

"SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A consumer who participates in any health insurance plan offered under the provisions of Sections 13 through 28 of this Act shall not be charged for health care services covered under the plan any more than ten percent (10%) above the Medicare reimbursement rate for the same sets of health care services."; and

On page 37, line 3, By deleting "SECTION 22" and inserting "SECTION 23" in lieu thereof, and By renumbering all subsequent sections accordingly.

And also on page 18, line 8, By deleting "*27*" and By inserting "*28*" in lieu thereof; and

On page 19, line 4, By deleting "*27*" and By inserting "*28*" in lieu thereof;

On page 27, line 12, By deleting "*27*" and By inserting "*28*" in lieu thereof; and

On page 29, line 22, By deleting "*22*" and By inserting "*23*" in lieu thereof; and

On page 30, line 22, By deleting "*26*" and By inserting "*27*" in lieu thereof; and

On page 40, line 10, By deleting "*27*" and By inserting "*28*" in lieu thereof; and

On page 40, line 10, By deleting "*24*" and By inserting "*25*" in lieu thereof; and

On page 42, line 24, By deleting "*24*" and By inserting "*25*" in lieu thereof; and

On page 43, line 14, By deleting "*23*" and By inserting "*24*" in lieu thereof; and

On page 47, line 5, By deleting "*29*" and By inserting "*30*" in lieu thereof; and

On page 47, line 5, By deleting "*42*" and By inserting "*43*" in lieu thereof; and

On page 52, line 14, By deleting "*30*" and By inserting "*31*" in lieu thereof; and

On page 62, line 22, By deleting "*29*" and By inserting "*30*" in lieu thereof; and

On page 62, line 22, By deleting "***42***" and By inserting "***43***" in lieu thereof; and

On page 62, line 24, By deleting "***29***" and By inserting "***30***" in lieu thereof; and

On page 62, line 24, By deleting "***42***" and By inserting "***43***" in lieu thereof; and

On page 63, line 2, By deleting "***29***" and By inserting "***30***" in lieu thereof; and

On page 63, line 2, By deleting "***42***" and By inserting "***43***" in lieu thereof; and

On page 63, line 14, By deleting "***27***" and By inserting "***28***" in lieu thereof; and

On page 66, line 21, By deleting "***27***" and By inserting "***28***" in lieu thereof; and

On page 90, line 22, By deleting "***24***" and By inserting "***25***" in lieu thereof; and

On page 90, line 23, By deleting "***62***" and By inserting "***63***" in lieu thereof.

Floor Amendment No. 38 to the House Committee Substitute to **SB 1**, by Representative Nunn:

On page 30, line 10, Delete "***and***"; and

On page 30, line 11, Delete the period after "***conditions***" and insert in lieu thereof the following:

"***; and***

(c) Consider the underwriting criteria of insurers that offer individual coverage."; and

On page 31, Delete lines 10 through 22 in their entirety and insert in lieu thereof the following:

"***(1) Coverage under the plan shall be provided only to individuals who have been rejected by at least two (2) insurers for coverage substantially similar to the plan coverage on the basis that the individual has a high-cost condition. The provisions of 42 U.S.C. sec. 300gg-41 pertaining to an eligible individual shall apply to any individual not qualified for the plan who is an eligible individual or has been a resident of the Commonwealth for at least twelve (12) months.***"; and

On page 31, line 23, Delete "***(3)***" and insert in lieu thereof "***(2)***"; and

On page 32, line 15, Delete "***(4)***" and insert in lieu thereof "***(3)***"; and

On page 32, line 21, Delete "***(5)***" and insert in lieu thereof "***(4)***".

Floor Amendment No. 39 to the House Committee Substitute to **SB 1**, by Representative Maricle:

On page 65, after line 23 insert the following:

"SECTION 48. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Catastrophic Health Insurance Program for Working Kentuckians. The program shall be operated by the Department of Insurance.

(2) The Catastrophic Health Insurance Program for Working Kentuckians shall supplement the cost of individual or family coverage equal to twenty percent (20%) of the premium of a high-deductible, catastrophic, health insurance plan for an eligible individual.

(3) As used in this section:

(a) "Eligible individual" means any individual and the individual's dependents whose annual, earned, household income exceeds the amount that allows them to qualify for Medicaid, but is less than two hundred and fifty percent (250%) of the current federal poverty guidelines.

(b) "High-deductible" means a policy that has at least a two thousand five hundred dollar ($2,500) annual, maximum out-of-pocket expenditure for an individual and at least a five thousand dollar ($5,000) annual maximum out-of-pocket expenditure for family coverage.

(4) The commissioner may hire additional employees to carry out the provisions of Sections 48 to 50 of this Act.

(5) The commissioner shall promulgate administrative regulations to effectuate the provisions of Sections 48 to 50 of this Act.

SECTION 49. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Catastrophic Health Insurance Program for Working Kentuckians fund as a special fund within the State Treasury. The fund may receive state appropriations, gifts, and grants.

(2) If receipts exceed the amount required for the operation of the Catastrophic Health Insurance Program for Working Kentuckians, including actual costs and administrative expenses, at the end of the fiscal year the excess shall be

returned to the general fund.

(3) Any deficit incurred under the Catastrophic Health Insurance Program for Working Kentuckians, shall be recouped by funds transferred under subsection (4) of Section 50 of this Act.

Section 50. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis, may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may, at any time, conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(4) An amount not to exceed twenty million dollars ($20,000,000) shall be transferred in fiscal year 1997-1998 and each fiscal year thereafter from the Kentucky lottery trust account to the Catastrophic Health Insurance Program for Working Kentuckians fund created in Section 49 of this Act.";

Renumber subsequent sections accordingly;

On page 90, line 23 after the second "Section" by deleting "62" and inserting "65".

Floor Amendment No. 40 to the House Committee Substitute to **SB 1**, by Representative Maricle:

On page 65, after line 23, insert the following:

"Section 48. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which

the corporation anticipates will be available for the payment of prizes on an annuity basis, may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may, at any time, conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(4) An amount not to exceed five million dollars ($5,000,000) shall be transferred in each fiscal year, beginning with 1997-1998 and ending with 1999-2000, from the Kentucky lottery trust account to the Kentucky comprehensive health insurance plan fund created in Section 23 of this Act.";

Renumber subsequent sections accordingly;

On page 90, delete lines 12 through 22 in their entirety and renumber subsequent sections accordingly; and

On page 90, line 23, after the second "Section" by deleting "62" and inserting "63".

Floor Amendment No. 41 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 7, between lines 15 and 16, by inserting the following new subsection:

"***(3) Each insurer that offers health benefit plan coverage in the small group market shall also offer health benefit plan coverage in the individual market.***"; and

On page 7, between lines 24 and 25, by inserting the following new subsection:

"***(3) All group health plans and health insurers offering group health benefit plan coverage in the Commonwealth shall also offer health benefit plan coverage in the individual market.***"; and

On page 11, line 11, after the word "***plan***", by inserting the words "***, and health insurers doing business in the small group market shall offer the standard health benefit plan to individuals in the individual market***"; and

On page 11, line 26, by deleting the words "***elects to offer***" and inserting the word "***offers***"; and

On page 12, line 4, after the word "***sell.***", by inserting the following:

"***Any health insurer that offers health benefit plans in the small group market in this state shall, as a condition of offering health benefit plans in the small group market after December 31, 1997, offer and actively market the standard***

health benefit plan in the individual market.".

Floor Amendment No. 42 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 57, after line 27, By inserting the following:

"***(d) Subsequent savings from paragraph (c) of this subsection shall be passed along to the plan enrollees in the form of a premium reduction.***".

Floor Amendment No. 43 to the House Committee Substitute to **SB 1**, by Representative Gray:

On page 14, between lines 5 and 6, by adding the following subsection:

"***(9) Payment for an emergency medical condition, as defined in Section 29 of this Act, under any health benefit plan, shall be based on a prudent layperson standard.***"; and on line 6, by renumbering "***(9)***"as "***(10)***"; and on line 9, by renumbering "***(10)***" as '***(11)***'; and on line 24, by renumbering "***(11)***" as "***(12)***"; and on line 27, by renumbering "***(12)***" as "***(13)***"; and

On page 47, line 12, after the word "***including***" by adding "***but not limited to,***", and after the word "***pain,***", by adding "***such that a prudent layperson, who possesses average knowledge of health and medicine, would believe***".

Floor Amendment No. 44 to the House Committee Substitute to **SB 1**, by Representative Richards:

On page 18, line 17, after the "***subsection***" by deleting "***(5)***" and inserting in lieu thereof "***(4)***"; and

On page 29, line 22, by deleting "***22***" and inserting in lieu thereof "***27***"; and

On page 30, line 22, by deleting "***26***" and inserting in lieu thereof "***27***".

Floor Amendment No. 45 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 15, line 15, by deleting "***June 30***" and inserting "***February 1***".

Floor Amendment No. 46 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 18, line 8, by deleting "***27***" and inserting "***20***"; and

On page 19, line 4, by deleting "***27***" and inserting "***20***"; and

On page 20, line 16, by deleting "***(a)***"; and

On page 20, by deleting lines 19 to 27; and

On page 21, by deleting lines 1 to 14; and

On page 27, line 12, by deleting "***27***" and inserting "***26***"; and

On page 28, line 8, by deleting "***All insurers, as a condition***"; and

On page 28, by deleting line 9; and

On page 30, line 5, after "***insurer***" by inserting "***, reinsurer, and self-insured employer-controlled or bona fide association, as a condition of doing business in Kentucky,***"; and

On page 30, line 5, after "***shall***" by inserting "***be a member of and***"; and

On page 30, line 5, after "***plan***" by inserting "***and be subject to an assessment***"; and

On page 36, after line 22 by inserting:

"***(2) Any net loss of the plan shall be assessed by the board to all insurers participating in the plan in proportion to their respective shares of total health insurance premiums received in this state during the calendar year coinciding with or ending during the fiscal year of the plan or any other equitable basis as may be provided in the plan of operation. For health maintenance organizations, the proportionate share of losses shall be determined through application of an equitable formula based upon claims paid on the value of services provided. In sharing losses, the board may abate or defer in whole or in part the assessment of a insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations.***

(3) Assessments from insurers shall be paid within thirty (30) days after written notice is mailed or delivered to the assessed insurer.

(4) Assessments from reinsurers shall be paid quarterly according to a procedure established by the commissioner by administrative regulation.

(5) Assessments shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located. In addition to being assessed interest, an insurer that fails to timely pay an assessment shall be in violation of this chapter.

(6) All assessments shall be paid in trust for the exclusive benefit of insurers who participate in the plan to a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095. The moneys in the trust shall be held separate and apart from any other funds or moneys of any insurer and of the state and shall be used and administered exclusively for the purposes of the plan. The commissioner, the State Treasurer, the State Auditor, the Attorney General, and any insurer may inspect the records of the trust during the business hours of the depository.

(7) After collecting all assessments to pay for the plan and paying administrative costs for each fiscal year, the commissioner shall calculate whether there remain any excess sums on deposit in the trust. Any excess, less any necessary reserves for the operation of the plan as certified by the depository trustee, shall be held at interest to offset future losses or allocated to reduce future premiums.

(8) Except for records that individually or in the aggregate would or could likely disclose information about the physical or mental condition of an individual, the records of the trust and its operation shall be considered public records for purposes of the Kentucky Open Records Law, KRS 61.870 to 61.884."; and

On page 36, line 23, by deleting "***(2)***" and inserting "***(9)***"; and

On page 40, by deleting lines 5 to 23 and inserting:

"***In addition to any assessment under Section 20 of this Act, the board may assess members of the plan for any initial costs associated with developing and implementing the plan.***"; and

On page 40, by deleting lines 26 and 27 and inserting:

"***Each reinsurer shall pay an annual assessment to the plan in an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums.***"; and

On page 41, by deleting lines 1 to 3; and

On page 42, by deleting lines 4 to 27 and inserting

"SECTION 27. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "insurer tax" means any tax imposed by KRS 136.330, 136.340, 136.350, 136.370, or 304.3-270.

(2) An insurer who participates in the Kentucky Comprehensive Health Insurance Plan shall be entitled to a credit against any insurer tax due and payable in the year in which the insurer tax is due and payable. The amount of the tax credit shall be equal to the amount of the insurer's assessment under Section 20 of this Act.

(3) If the amount of the insurer tax for any year is less than the amount of tax credit allowed under subsection (2) of this section, the insurer may apply any unused tax credit against insurer taxes due and payable in any of the next five (5) years."; and

On page 43, by deleting all lines on the page; and

On page 44, by deleting lines 1 to 14; and

On page 63, line 14, by deleting "***27***" and inserting "***20***"; and

On page 66, line 21, by deleting "***27***" and inserting "***20***"; and

On page 90, after line 8, by inserting:

"304.17A-130 Risk adjustment process -- Authority for administrative regulations."; and

On page 90, by deleting lines 12 to 22; and

On page 90, line 23, by deleting "66" and inserting "65"; and

On page 90, line 26, by deleting "67" and inserting "66".

Floor Amendment No. 47 to the House Committee Substitute to **SB** 1, by Representative Stumbo:

On page 18, line 8, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 19, line 4, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 20, line 16, by deleting "***(a)***"; and

On page 20, by deleting lines 19 to 27; and

On page 21, by deleting lines 1 to 14; and

On page 27, line 5, by deleting "*, including the plan created in Section 14 of this Act,*"; and

On page 27, by deleting lines 10 to 27; and

By deleting pages 28 to 43 in their entirety; and

On page 44, by deleting lines 1 to 14; and

On page 27, after line 9, by inserting:

"SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 13 to 22 of this Act may be referred to as the Kentucky Guaranteed Issue Funding Program.

(2) There is hereby created the Kentucky Guaranteed Issue Funding Program, which shall be operational on or before January 1, 1998. For purposes of Sections 13 to 22 of this Act, "program" means the Kentucky Guaranteed Issue Funding Program.

(3) The General Assembly finds that the guaranteed issue provisions created by this subtitle will provide access to health insurance to residents of Kentucky at costs that, in particular cases, will be substantially above the premiums that individuals will pay for coverage. The Kentucky Guaranteed Issue Funding Program is created to:

(a) Encourage private insurers to participate in the individual market by establishing a means to allocate the losses that insurers issuing coverage in the individual market incur with respect to policies defined as high-cost policies in Section 14 of this Act;

(b) Provide a mechanism for persons with a high-cost condition to maintain access to coverage in the private insurance market by means of the allocation process in paragraph (a) of this subsection; and

(c) Provide a safety net of insurance coverage to persons with a high-cost condition in areas of Kentucky where alternatives for individual coverage are restricted or unavailable as defined in Section 17 of this Act.

(4) The Kentucky Guaranteed Issue Funding Program is also designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(5) All insurers, reinsurers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Issue Funding Program and be subject to an assessment.

(6) As a condition of doing business in the Commonwealth of Kentucky, all insurers writing health insurance policies and plans in this state shall:

(a) 1. Support the program by paying an assessment as defined in Section 14 of this Act; or

2. Participate in the program by insuring individuals with high-cost conditions; and

(b) Pay their proportionate share of the cost of the program based on their market share, as set forth in Section 14 of this Act.

(7) During the transition from the effective date of this Act until the date the program begins issuing coverage, the commissioner shall act on behalf of the program.

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 13 to 22 of this Act, unless the context requires otherwise:

(1) "Actual high-cost policy losses" means a dollar amount calculated by subtracting an insurer's high-cost policy claims from that insurer's high-cost policy premiums.

(2) "Adjusted total high-cost policy losses" means an amount calculated by subtracting all reinsurer assessments under Section 21 of this Act from the total actual high-cost policy losses.

(3) "Allocated high-cost policy losses" means the amount obtained by multiplying the insurer's market share by the amount of the adjusted total high-cost policy losses.

(4) "Assessment" means the following:

(a) With respect to an insurer, an amount calculated by subtracting an insurer's allocated high-cost policy losses from the insurer's actual high-cost policy losses. If the amount calculated is greater than zero, it shall be treated as a refund; and

(b) With respect to a reinsurer, the amount assessed under Section 21 of this Act.

(5) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" does not include an insurer's administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(6) "Covered life" means a person who has health insurance coverage.

(7) "Diagnosed" means any of the following:

  (a) A physician, or other qualified health care practitioner as may be defined by the commissioner by administrative regulation, has reached, consistent with ordinary care in that person's profession, the conclusion that a person has contracted or is suffering from a medical condition;

  (b) A person who has stated in any application for a health care policy that the person or any person entitled to benefits under the health care policy has contracted or is suffering from any human ailment, deficiency, deformity, disease, injury, pain, or physical condition; or

  (c) Such other definition as the commissioner may by administrative regulation reasonably establish.

(8) "First issuance" means the date a person first became eligible for benefits under a health insurance policy.

(9) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market.

(10) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount.

(11) "High-cost policy" means a health insurance policy that is eligible for inclusion in calculating assessments and refunds under the program.

(12) "High-cost policy claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to high-cost policies or such other claim measurement formula as the commissioner may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead cost, with respect to a high-cost policy.

(13) "High-cost policy premiums" means the dollar amount of premiums received by an insurer with respect to high-cost policies.

(14) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers.

(15) "Other coverage" means coverage under any of the following:

  (a) A group health plan;

  (b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c, et seq.;

  (c) A state plan under Title XIX of the Social Security Act, or any successor program;

  (d) Continuation coverage under any COBRA continuation provision as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or

  (e) Any other health insurance coverage that is not individual health insurance coverage.

(16) "Participating carrier" means a carrier that actively offers high-cost policies in the individual health insurance market through the program and accepts all applicants that apply within the carrier's proportionate share.

(17) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(18) "Program" means the Kentucky Guaranteed Issue Funding Program.

(19) "Refund" means an amount to be paid to an insurer by the program.

(20) "Reinsurer" means any person providing health insurance stop-loss coverage.

(21) "Reinsurance premiums" means amounts paid to reinsurers to purchase health insurance stop-loss coverage.

(22) "Supporting carrier" means a carrier not offering high-cost policies in the individual health insurance market through the program; the carrier shall not pay an assessment as defined in this section to assist in subsidizing the costs incurred by the program and any participating carriers.

(23) "Total actual high-cost policy losses" means a dollar amount equal to the sum of the actual high-cost policy losses of the program.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

(1) The commissioner shall administer the provisions of Sections 13 to 22 of this Act, and the commissioner's duties and responsibilities to the program include:

(a) Appoint an administrator and hire any additional staff required to accomplish the requirements of Sections 13 to 22 of this Act;

(b) Take any legal actions necessary, including action to recover or collect assessments due the program;

(c) Establish administrative and accounting procedures for the operation of the program;

(d) Establish procedures under which applicants and participants in the program may have grievances reviewed by an impartial body and reported to the commissioner;

(e) Collect the fees and any assessments in accordance with Sections 13 to 22 of this Act; and

(f) Provide written reports to the Governor and the Legislative Research Commission annually of all activities of the program. The commissioner shall by administrative regulation determine what reports and data need to be reported.

(2) The commissioner shall, by administrative regulation, establish a list of high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health insurers may elect to participate in providing health insurance coverage to individuals with a high-cost condition under the Kentucky Guaranteed Issue Funding Program under the following conditions:

(a). Network-based insurers may limit coverage to those benefit plans offered to persons residing in the geographic area covered by the providers network;

(b) A group carrier may elect to offer coverage to persons with a high-cost condition without otherwise operating in the individual market; and

(c) Any participating carrier may limit the number of persons enrolled with a high-cost condition to the proportion of the insurer's market share. A carrier that reaches its enrollment limit during a given month shall immediately notify the commissioner and shall continue issuing coverage throughout the end of that month. High-cost policies that are enrolled with a carrier on the effective date of this Act and health insurance policies that were not high cost at the time of first issuance, but that become high-risk policies, may be counted toward the enrollment cap of a participating carrier.

(2) The commissioner shall publicize a monthly list of participating carriers that offer coverage to individuals with a high-cost condition.

(3) A health insurance policy shall be considered a high-cost policy and is eligible for inclusion in calculating assessments and refunds under the program if it meets all of the following criteria:

(a) The health insurance policy is purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children;

(b) Under the program, an individual entitled to benefits has a defined high-cost condition;

(c) The lifetime claims that have been paid under the health insurance policy have not exceeded one million dollars ($1,000,000). The lifetime claims limit shall not apply if the policy was issued before the effective date of this section, or is a renewal of a policy that was issued before the effective date of this Act;

(d) The health insurance policy imposes the maximum pre-existing condition exclusion permitted under Section 4 of this Act;

(e) The individual purchasing the health insurance policy is not eligible for or covered by other coverage;

(f) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A; and

(g) Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this subsection even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year.

(4) Notwithstanding any other provision of this section, a health insurance issuer shall not be required to utilize the experience of high cost policies under the program to develop index rates for its individual policies under Section 9 of this Act.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

(1) The program shall create the Kentucky Safety Net plan as an alternative coverage limited to those circumstances listed in subsection (3) of this section.

(2) The Kentucky Safety Net portion of the program shall be operational from the date the program becomes operational to April 14, 2000.

(3) The Kentucky Safety Net portion of the program shall be made available on a guaranteed issue basis only to persons with a high-cost condition who are not eligible for coverage through an employer or any governmental program, and only under the following circumstances:

(a) There is no health insurance coverage available from a private participating carrier in the geographic area of the individual; or

(b) There is only one (1) participating carrier offering coverage in the geographic area of the individual.

(4) The Kentucky Safety Net portion of the program shall offer two (2) health benefit plans to participants similar to the health benefit plans in existence at the time of the effective date of this Act. Initially, one (1) plan shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars ($1,000,000) per covered individual. Health benefit plans shall be offered with high and low cost-sharing options. Both plans shall include utilization review and case management.

(a) No pre-existing condition exclusion under the Kentucky Safety Net portion of the program shall be applied to individuals who have eighteen (18) months of creditable coverage with no more than sixty-three (63) days' lapse in coverage prior to application in the program.

(b) A twelve (12) month pre-existing condition exclusion shall be imposed with a credit for prior coverage on individuals who do not meet the requirements of paragraph (a) of this subsection.

(5) Rates for health insurance coverage issued under the Kentucky Safety Net portion of the program shall initially not exceed one hundred fifty percent (150%) of the average statewide rate in the commercial individual market for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(6) Net losses of the Safety Net portion of the program shall be included in the total losses of the program and shall be reimbursed from assessments.

(7) The commissioner shall have the following powers and duties on behalf of the Safety Net portion of the program:

(a) Enter into any contracts as are necessary or proper to carry out the provisions of Sections 13 to 22 of this Act;

(b) Design and offer health insurance policies that are to be available three hundred sixty-five (365) days per year on a guaranteed issue basis to eligible individuals;

(c) Develop a program to publicize the existence of the Safety Net portion of the program, the eligibility requirements for the Safety Net portion of the program, and the procedures for enrollment in the Safety Net portion of the program, and to maintain public awareness of the Safety Net portion of the program;

(d) Determine a fee for licensed insurance agents that place business through, or refer business to, the Safety Net portion of the program;

(e) Provide for reinsurance of risks incurred by the Safety Net portion of the program;

(f) Issue policies of insurance in accordance with the requirements of Sections 13 to 22 of this Act;

(g) Establish and modify from time to time, as appropriate, rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other function appropriate to the operation of the Safety Net portion of the program;

(h) Prepare and distribute application forms and enrollment instruction forms to insurance producers and to the general public;

(i) Appoint or hire appropriate legal, actuarial, and other professionals as necessary to provide technical assistance in the operation of the Safety Net portion of the program;

(j) Provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plans more cost-effective; and

(k) Design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services.

(8) After April 14, 2000, this section shall become null and void.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

(1) For a health insurance policy that is a high-cost policy at the time of first issuance, an insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the maximum annual premium that the insurer could charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(2) (a) If a health insurance policy that was not a high-cost policy at the time of first issuance thereafter becomes a high-cost policy, the insurer may not increase the premium on account of the health insurance policy becoming a high-cost policy until the date of first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition. Nothing in this subsection shall prohibit an increase in premiums that could be imposed on an equivalent health insurance policy that was not a high-cost policy. At the time of the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) At the time of each subsequent renewal after the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(3) If an individual was not without health insurance coverage for more than sixty-three (63) days immediately preceding the purchase of a high-cost health insurance policy that is eligible under the program, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy. At the time of each subsequent renewal of the high-cost health insurance policy, the insurer may charge an annual premium as allowed under subsection (1) of this section.

(4) (a) Notwithstanding the provisions of subsections (1, (2), and (3) of this section, the commissioner may, for good cause shown, authorize increasing the annual premium on a high-cost policy up to two hundred percent (200%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) Rates for health benefit plans issued by the program shall not exceed two hundred percent (200%) of the average standard rate for similar coverage.

(c) All rates for health benefit plans issued by the program shall be filed with and approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each calendar year that the program is operating, every insurer shall report to the commissioner and the program, in the form and at the time as the commissioner by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of high-cost policies in force as of December 31;

(c) The amount of the insurer's high-cost policy premiums received during the calendar year covered by the report;

(d) The amount of the insurer's high-cost policy claims paid during the calendar year covered by the report; and

(e) Such other information as the commissioner may, by administrative regulation, require be reported to operate the program.

Nothing contained in this subsection shall prohibit the commissioner from conducting examinations of insurers participating in the plan as is permitted by KRS 304.2-100 or from exercising other powers as are conferred upon the commissioner or the department by this chapter.

(2) At the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the commissioner shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of high-cost policy premiums for all reporting insurers;

(c) The total amount of high-cost policy claims paid by all reporting insurers;

(d) The total amount of total actual high-cost policy losses;

(e) The amount of the adjusted total actual high-cost policy losses;

(f) The amount of each insurer's allocated high-cost policy losses;

(g) The amount of the insurer's assessment or refund; and

(h) Such other information as the commissioner may elect to calculate and report.

The commissioner shall complete the calculation and provide each insurer the results of the calculation within forty-five (45) days after the reporting deadline.

(3) The commissioner shall prepare quarterly estimated calculations for the purposes of allowing all insurers to budget for their annual assessments and refunds.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, the commissioner shall, by administrative regulation promulgated within ninety (90) days of the effective date of this Act, require that high-cost policies contain cost containment features, including managed care and utilization management, to control the amount of high-cost policy losses without creating adverse health care outcomes. If the commissioner fails to timely promulgate administrative regulations, health insurance issuers shall impose cost containment features.

(2) The Health Insurance Advisory Council shall no less than annually review the list of high-cost conditions established by the commissioner under subsection (12) of Section 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes the commissioner deems appropriate. In making recommendations the council, and in making changes the commissioner, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(3) For each calendar year that the program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each reinsurer shall pay an annual assessment to the program in an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Assessments from insurers shall be paid within thirty (30) days after written notice is mailed or delivered to the assessed insurer.

(2) Assessments from reinsurers shall be paid quarterly according to a procedure established by the commissioner by administrative regulation.

(3) Assessments shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located. In addition to being assessed interest, an insurer that fails to timely pay an assessment shall be in violation of this chapter.

(4) All assessments shall be paid in trust for the exclusive benefit of insurers who participate in the program to a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095. The moneys in the trust shall be held separate and apart from any other funds or moneys of any insurer and of the state and shall be used and administered exclusively for the purposes of the program. Withdrawals from the trust shall be made solely for:

(a) Payments of refunds;

(b) Payments of overpayments made by an insurer;

(c) Payments of administrative costs for the administration of the trust, as specified in the trust agreement, but not to exceed the extent of earnings on the prudent investment of the assets of the trust; and

(d) For other purposes necessary to administer the program as the commissioner may by administrative regulation specify, except that the commissioner may not cause his or her expenses or the expenses of the department or of any agency of the state to be paid from the trust.

The commissioner, the State Treasurer, the State Auditor, the Attorney General, and any insurer may inspect the records of the trust during the business hours of the depository.

(5) A refund may be only paid by the depository trustee upon receipt of a written instruction to pay a refund signed by the commissioner or the commissioner's designee, and the depository trustee shall promptly pay a refund upon receipt of a proper instruction. The commissioner shall instruct the depository trustee to make a required refund no later than forty-five (45) days after written notice to the insurer of the commissioner's calculation. All refunds shall be paid in lawful money of the United States and shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located.

(6) After collecting all assessments to pay for the program, paying all refunds to participating carriers, and paying other administrative costs for each fiscal year, the commissioner shall calculate whether there remain any excess sums on deposit in the trust. Any excess, less any necessary reserves for the operation of the program as certified by the depository trustee, shall be refunded to all insurers who participated in the program for the entire fiscal year in proportion to their market share at the end of the prior year.

(7) Except for records that individually or in the aggregate would or could likely disclose information about the physical or mental condition of an individual, the records of the trust and its operation shall be considered public records for purposes of the Kentucky Open Records Law, KRS 61.870 to 61.884.

SECTION 9. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Insurer tax" means any tax imposed by KRS 136.330, 136.340, 136.350, 136.370, or 304.3-270.

(b) "Allocated high-cost policy losses" has the same meaning as in Section 14 of this Act.

(2) An insurer who participates in the Kentucky Guaranteed Issue Funding Program shall be entitled to a credit against any insurer tax due and payable in the year in which the insurer tax is due and payable. The amount of the tax credit shall be equal to the amount of the insurer's assessment less the amount of refunds paid to the insurer.

(3) If the amount of the insurer tax for any year is less than the amount of tax credit allowed under subsection (2) of this section, the insurer may apply any unused tax credit against insurer taxes due and payable in any of the next five (5) years."; and

On page 44, line 15, by deleting "28" and inserting "24"; and

On page 45, lines 17 and 18, by deleting "***the board of the Kentucky comprehensive health insurance plan,***"; and

On page 45, line 19, by deleting the comma; and

On page 46, line 6, by deleting all words on the line after "***lapse.***"; and

On page 46, by deleting lines 7 and 8; and

On page 46, lines 10 and 11, by deleting "***the board of the Kentucky Comprehensive Health Insurance Plan,***"; and

On page 46, line 12, by deleting the comma; and

On page 46, line 24, by deleting all words on the line after "***1998.***"; and

On page 46, by deleting lines 25 to 27; and

On page 47, line 3, by deleting "29" and inserting "25" and renumbering all subsequent sections; and

On page 47, line 5, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 52, line 14, by deleting "***30***" and inserting "***26***"; and

On page 62, lines 22 and 24, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 2, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 14, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 66, line 21, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 90, after line 8, by inserting:

"304.17A-130 Risk adjustment process -- Authority for administrative regulations."; and

On page 90, by deleting lines 12 to 22; and renumbering all subsequent sections; and

On page 90, line 23, by deleting "62" and inserting "58".

Floor Amendment No. 48 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 44, line 4, by inserting "***.***" after "***basis***" and deleting the remainder of the line; and
On page 44, by deleting lines 5 and 6; and
On page 90, by deleting lines 12 to 22; and
On page 90, line 23, by deleting "66" and inserting "65"; and
On page 90, line 26, by deleting "67" and inserting "66".

Floor Amendment No. 49 to the House Committee Substitute to **SB 1**, by Representative Treesh:

On page 7, line 5, by deleting "***(1)***"; and
On page 7, by deleting lines 12 through 15 in their entirety.

Floor Amendment No. 50 to the House Committee Substitute to **SB 1**, by Representative Treesh:

By deleting everything after the enacting clause on every page thereafter and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

- ***(a) 26 U.S.C.A. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;***
- ***(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C.A. 1161 et seq. other than Section 1169);***
- ***(c) 42 U.S.C.A. 300bb.***

(2) "Eligible individual" means an individual:

- ***(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;***
- ***(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C.A. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C.A. 1396 et seq.) and does not have other health insurance coverage;***
- ***(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) was not terminated based on a factor described in subsection (2)(a) and (b) in Sections 7 and 8 of this Act;***
- ***(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and***
- ***(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.***

(3) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issue.

(4) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a health maintenance organization, licensed pursuant to this chapter. It does not include a group health plan.

(5) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

- ***(a) 26 U.S.C.A. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;***
- ***(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C.A. 1161 et seq. other than Section 1169);***

(c) 42 U.S.C.A. 300bb.

(2) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C.A. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C.A. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) was not terminated based on a factor described in subsection (2)(a) and (b) in Sections 7 and 8 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(3) "Group health plan" means an employee welfare benefit plan as defined in 29 U.S.C.A. 1002(1) to the extent that the plan provides medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(4) "Group health insurance coverage" means, in connection with a group health plan, health insurance coverage offered in connection with such plan.

(5) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issue.

(6) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a health maintenance organization, licensed pursuant to this chapter. It does not include a group health plan.

SECTION 3. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an eligible individual desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual and shall comply with the provisions of 42 U.S.C. 300gg-41.

(2) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an individual, who is not an eligible individual under subsection (1) of this section, desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual if the individual has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of this Act and is covered under an individual health benefit plan on the effective date of this Act or at anytime during the sixty (60) days immediately preceding the effective date of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise:

(a) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year.

(b) "Small group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan maintained by a small employer.

(2) Each health insurance issuer that offers health insurance coverage in the small group market must accept every small employer that applies for coverage and must accept for enrollment under such coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and shall comply with the provisions of 42 U.S.C. 300gg-11.

SECTION 5. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All group health plans and health insurance issuers offering group health insurance coverage in the Commonwealth shall comply with the provisions of 42 U.S.C. 300gg which establishes standards and requirements for preexisting conditions exclusions, including crediting previous coverage, special enrollment periods, and use of affiliation periods.

SECTION 6. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth shall not impose any preexisting exclusions as to any eligible individual.

(2) Each health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth that chooses to impose a preexisting conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of 42 U.S.C. 300gg which establishes standards and requirements for preexisting conditions exclusions for group health plans.

SECTION 7. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force coverage at the option of the individual.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one (1) or more of the following:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The issuer is ceasing to offer coverage in the individual market in accordance with subsection (3) of this section.

(d) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(e) In the case of health insurance coverage that is made available in the individual market only through one (1) or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of the type may be discontinued by the issuer only if:

1. The issuer provides notice to each covered individual provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2., the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for coverage.

(b) 1. Subject to subparagraph 3. in paragraph (a), in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

i. The issuer provides notice to the commissioner and to each individual of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage, and

ii. All health insurance issued or delivered for issuance in Kentucky in the market are discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one (1) or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member.

SECTION 8. A NEW SECTION OF SUBCHAPTER 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, if a health insurance issuer offers health insurance coverage in the group market

in connection with a group health plan, the issuer must renew or continue in force coverage at the option of the plan sponsor of the plan.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the group market based only on one (1) or more of the following:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules.

(d) The issuer is ceasing to offer coverage in the group market in accordance with subsection (3) of this section.

(e) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with the plan who resides, lives, or works in the service area of the issuer (or in the area for which the issuer is authorized to do business).

(f) In the case of health insurance coverage that is made available in the group market only through one (1) or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individual.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the group market, coverage of the type may be discontinued by the issuer in the market only if:

1. The issuer provides notice to each plan sponsor provided coverage of this type in the market (and participants and beneficiaries covered under the coverage) of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each plan sponsor provided coverage of this type in the market, the option to purchase all other health insurance coverage currently being offered by the issuer to a group health plan in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2., the issuer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for coverage.

(b) 1. In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the group market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

i. The issuer provides notice to the commissioner and to each plan sponsor (and participants and beneficiaries covered under the coverage) of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage, and

ii. All health insurance issued or delivered for issuance in Kentucky in the market are discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. in the group market, the issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan in the group market if, for coverage that is available in the market other than only through one (1) or more bona fide associations, the modification is consistent with this chapter and effective on a uniform basis among group health plans with that product.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the group market to employers only through one (1) or more associations, a reference to plan sponsor is deemed, with respect to coverage provided to an employer member of the association, to include a reference to such employer.

SECTION 9. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans pursuant to KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110 (1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

SECTION 10. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans pursuant to KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110 (1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 11. KRS 304.17-383 is amended to read as follows:

(1) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and after the hearing shall issue a final order approving or disapproving the filing.

(2) In approving or disapproving a filing under subsection (1) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(3) The commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to the hearing if he chooses to participate.

(4) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after an administrative hearing may withdraw approval of rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged. Administrative hearings conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(6) (a) Subsections (1) to (3) of this section shall not apply and premium rates shall be deemed approved upon filing with the Department of Insurance if the filing is accompanied by a loss ratio guarantee, and benefits shall be deemed reasonable in relation to the premium rates so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee shall be in writing and shall contain at least the following:

1. A recitation of the anticipated loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved by the commissioner;

2. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the loss ratio standards referred to in subparagraph 1. of this paragraph. If the annual earned premium volume in Kentucky under the particular policy form is less than one million dollars ($1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form;

3. A guarantee that the actual Kentucky loss ratio results for each year at issue shall be independently audited at the insurer's expense. This audit shall be done in the second quarter of the next year and the audited results shall be reported to the commissioner not later than the date for filing the applicable accident and health policy experience exhibit;

4. A guarantee that affected Kentucky policyholders will be issued a proportional refund, based on premium paid, of the amount necessary to bring the actual aggregate loss ratio up to the anticipated loss ratio standards referred to in subparagraph 1. of this paragraph. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of the last of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from the end of the year at issue until the date of payment. Payment shall be made during the third quarter of the next year; and

5. A guarantee that refunds of less than ten dollars ($10) will be aggregated by the insurer and paid to the Department of Insurance.

(b) As used in this subsection, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.

Section 12. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 13. KRS 367.160 is amended to read as follows:

(1) All departments, agencies, officers, and employees of the Commonwealth shall fully cooperate with the Attorney General in carrying out the functions of KRS 367.120 to 367.300.

(2) The persons designated by the Attorney General as utility consumer intervenors shall have the same access to material evidence and information of the Public Service Commission relating to any case before it as other parties to the case.

[~~(3) The persons designated by the Attorney General as health insurance consumer intervenors shall have the same access to material evidence and information of the commissioner of the Department of Insurance relating to any health insurance rate hearings before it as other parties to the hearing.~~]

Section 14. KRS 304.18-050 is amended to read as follows:

[~~(1)~~] Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.

[~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed-issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~] If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 15. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to [~~standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 16. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 3 -- Authorization of Insurers and General Requirements;
(4) Subtitle 4 -- Fees and Taxes;
(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;
(6) Subtitle 7 -- Investments;
(7) Subtitle 12 -- Trade Practices and Frauds;
(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;
(9) ***Subtitle 17 -- Sections 3, 6, 7, and 9 of this Act***[~~Subtitle 17A -- Health Benefit Plans~~];
(10) Subtitle 18 -- ***Sections 4, 5, 8, and 10 of this Act***[~~KRS 304.18-050~~];
(11) Subtitle 25 -- Continuity of Management;
(12) Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(13) Subtitle 37 -- Insurance Holding Company Systems; and
(14) Subtitle 99 -- Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

SECTION 17. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each individual health insurance policy issued, delivered, or renewed on or after the effective date of this Act, which

provide coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally-adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 18. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each group health insurance policy issued, delivered, or renewed on or after the effective date of this Act, which provide coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally-adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 19. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each policy, contract, or plan issued, delivered, or renewed on or after the effective date of this Act, which provide coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally-adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 20. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each certificate, agreement, policy, or contract issued, delivered, or renewed by a health maintenance organization on or after the effective date of this Act, which provide coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally-adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 21. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A individual health insurance policy issued or renewed on or after the effective date of this Act, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 22. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A group health insurance policy issued or renewed on or after the effective date of this Act, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 23. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) policy, contract, or plan issued or renewed on or after the effective date of this Act, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child,

authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 24. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A certificate, agreement, policy, or contract issued or renewed on or after the effective date of this Act, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created pursuant to this subtitle shall not issue or renew any business after January 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than December 31, 1998, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on January 1, 1998.

(2) A provider-sponsored integrated health delivery network created pursuant to this subtitle shall not accept any new business on and after the effective date of this Act. The commissioner shall not issue a certificate of filing to a network on and after the effective date of this Act. KRS 304.17A-300 and 304.17A-310 shall become null and void January 1, 1998.

(3) No health benefit plans shall be issued, delivered, or renewed pursuant to the provisions of this subtitle on and after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS Chapter 17A until the end of the contract or policy period or December 31, 1998, whichever comes first. The provisions of KRS 304.17A-095 to 304.17A-171 shall become null and void on January 1, 1998.

SECTION 26. KRS 304.17A-080 IS REPEALED, AND REENACTED AS A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304, AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

(a) [~~The design of the standard health benefit plans pursuant to KRS 304.17A-160;~~

~~(b)~~] The rate-filing process for all health benefit plans;

(b)[~~(c)~~]The definition of high-risk conditions;

(c)[~~(d)~~]The administrative regulations concerning this subtitle to be promulgated by the department; and

(d)[~~(e)~~]Other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

[~~(5) The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or~~

~~replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner.~~]

Section 27. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 28. Effective January 1, 1998, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans -- Certification.

304.17A-095 Insurer issuing health benefit plan must file rates and charges -- Commissioner's approval -- Hearing -- Notification of Attorney General -- Administrative regulations.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.

304.17A-130 Risk adjustment process -- Authority for administrative regulations.

304.17A-135 Coverage for treatment of breast cancer.

304.17A-140 Coverage applicable to children to include legally-adopted children.

304.17A-145 Maternity coverage to include specified amounts of inpatient care for mothers and newly-born children -- Exemption.

304.17A-150 Unfair trade practices.

304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

304.17A-170 Definitions for KRS 304.17A-170 and 304.17A-171.

304.17A-171 Requirements for health benefit plans that include chiropractic benefits.

304.17A-300 Provider-sponsored integrated health delivery network -- Qualifications -- Fees -- Network subject to provisions of other subtitles.

304.17A-310 Financial solvency requirements for network.

Section 29. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth and premium rates have increased which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and Sections 1 to 27 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 51 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 89, in between lines 15 and 16 By inserting the following:

SECTION 63. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the 1998 premium rates for all health benefit plans developed, marketed, and issued pursuant to this subtitle shall be the same as the rates in effect for calendar year 1997 plus a composite rate increase of five percent (5%)."; and

SECTION 64. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the 1998 premium rates for all health benefit plans developed, marketed, and issued pursuant to this subtitle shall be the same as the rates in effect for calendar year 1997 plus a composite rate increase of five percent (5%)."; and

SECTION 65. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the 1998 premium rates for all health benefit plans developed, marketed, and issued pursuant to this subtitle shall be the same as the rates in effect for calendar year 1997 plus a composite rate increase of five percent (5%)."; and

SECTION 66. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the 1998 premium rates for all health benefit plans developed, marketed, and issued pursuant to this subtitle shall be the same as the rates in effect for calendar year 1997 plus a composite rate increase of five percent (5%)." and

SECTION 67. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the 1998 premium rates for all health benefit plans developed, marketed, and issued pursuant to this subtitle shall be the same as the rates in effect for calendar year 1997 plus a composite rate increase of five percent (5%)."; and

On page 89, line 16, By deleting "Section 63" and By inserting "Section 68" in lieu thereof, and By renumbering the subsequent sections accordingly.

Floor Amendment No. 52 to the House Committee Substitute to **SB 1**, by Representative Crall:

On page 15, by deleting lines 18 to 27 and inserting the following:

"Section 1. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers***, shall submit a copy of the filing to the Attorney General,*** and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed[~~ with the commissioner~~]. The insurer may submit new filings from time to time as it deems proper[~~, except as provided in subsection (5) of this section~~].

(2) (a) ***Within thirty (30) days after the filing, the commissioner shall enter an order approving or disapproving the filing, except***[~~Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective.~~] the period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that[~~ it needs~~] the additional time ***is necessary*** for consideration of the filing.

(b) At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.

(c)[~~(b)~~]The commissioner may ***issue an order scheduling***[~~hold~~] a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

[~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; [~~and~~]

(f) ***The effect on the rates of any assessment made under Section 27 of this Act; and*** *(g)* Other factors as deemed relevant by the commissioner.

(4) Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General shall participate as a health insurance consumer intervenor and be considered a party to the hearing.

(5) ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.***

(6) Notwithstanding subsection (5) of this section, any health benefit plan in effect on the effective date of this Act may, on any renewal date before September 1, 1998, be renewed for a period less than twelve (12) months if both the policyholder and the insurer agree[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase~~].

(7)[~~(6)~~] At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund to policyholders, enrollees, and subscribers if the commissioner determines that the benefits are no longer reasonable in relation to the premiums or fees charged.

(8) The commissioner shall hold a hearing upon written request by the Attorney General. The request shall include the specific reason for the requested hearing, the factors in subsection (3) of this section that the request is based on, and documentation from the rate filing supporting the request.

(9) Subsection (2)(a) and (b) of this section shall not apply if the filing is accompanied by a minimum loss ratio guarantee. Insurers may use the premium rates contained in a filing accompanied by a minimum loss ratio guarantee upon filing with the department. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio. Once an insurer elects to use the filing procedure in this section for a policy form or forms, the insurer shall not use a filing of premium rates which does not provide a minimum guarantee loss ratio for that policy form or forms.

(a) The minimum loss ratio guarantee shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this section;

2. Detailed experience information concerning the policy form;

3. A step-by-step description of the process used to develop the experience loss ratio;

4. A guarantee of a specific minimum loss ratio, which shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Sixty-five percent (65%) for policies issued to individuals;

b. Sixty-five percent (65%) for policies issued to groups of two (2) to ten (10) individual members or employees; and

c. Seventy percent (70%) for policies issued to groups of eleven (11) to fifty (50) individual members or employees;

5. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 4. of this paragraph; and

6. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based partially on the Kentucky earned premium and other creditability factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner and the Attorney General not later than one hundred twenty (120) days after the end of the year at issue.

(c) The insurer shall refund premiums in the amount necessary to bring the actual aggregate loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of December of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180)

days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the Kentucky comprehensive health insurance plan created in Section 14 of this Act.

(10)[~~(7)~~] *Each insurer paying a risk assessment under Section 27 of this Act may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.*

(11) The commissioner may by administrative regulation prescribe any additional information *related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section* it deems *necessary and* relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]"; and

By deleting pages 16 to 18; and

On page 19, by deleting lines 1 to 18.

Floor Amendment No. 53 to the House Committee Substitute to **SB 1**, by Representative Crall:

Page 1, by deleting everything in the bill after the enacting clause and inserting:

"SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169);

(c) 42 U.S.C. sec. 300bb.

(2) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C. sec. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 7 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(3) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(4) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a health maintenance organization, licensed under this chapter. It does not include a group health plan.

(5) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169);

(c) 42 U.S.C. sec. 300bb.

(2) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C. sec. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 8 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(3) "Group health plan" means an employee welfare benefit plan as defined in 29 U.S.C. sec. 1002(1) to the extent that the plan provides medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(4) "Group health insurance coverage" means, in connection with a group health plan, health insurance coverage offered in connection with such a plan.

(5) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(6) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a health maintenance organization, licensed under this chapter. It does not include a group health plan.

SECTION 3. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an eligible individual desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual and shall comply with the provisions of 42 U.S.C. sec. 300gg-41.

(2) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an individual, who is not an eligible individual under subsection (1) of this section, desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual if the individual has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of this Act and is covered under an individual health benefit plan on the effective date of this Act or at any time during the sixty (60) days immediately preceding the effective date of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise:

(a) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year.

(b) "Small group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan maintained by a small employer.

(2) Each health insurance issuer that offers health insurance coverage in the small group market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and shall comply with the provisions of 42 U.S.C. sec. 300gg-11.

SECTION 5. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All group health plans and health insurance issuers offering group health insurance coverage in the Commonwealth shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for pre-existing conditions exclusions, including crediting previous coverage, special enrollment periods, and use of affiliation periods.

SECTION 6. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth shall not impose any preexisting exclusions as to any eligible individual.

(2) Each health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth that chooses to impose a preexisting conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for preexisting conditions exclusions for group health plans.

SECTION 7. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force coverage at the option of the individual.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one (1) or more of the following:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The issuer is ceasing to offer coverage in the individual market in accordance with subsection (3) of this section.

(d) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(e) In the case of health insurance coverage that is made available in the individual market only through one (1) or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of the type may be discontinued by the issuer only if:

1. The issuer provides notice to each covered individual provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

a. The issuer provides notice to the commissioner and to each individual of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one (1) or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member.

SECTION 8. A NEW SECTION OF SUBCHAPTER 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, if a health insurance issuer offers health insurance coverage in the group market in connection with a group health plan, the issuer shall renew or continue in force coverage at the option of the plan sponsor of the plan.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the group market based only on one (1) or more of the following:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules.

(d) The issuer is ceasing to offer coverage in the group market in accordance with subsection (3) of this section.

(e) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with the plan who resides, lives, or works in the service area of the issuer (or in the area for which the issuer is authorized to do business).

(f) In the case of health insurance coverage that is made available in the group market only through one (1) or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the group market, coverage of the type may be discontinued by the issuer in the market only if:

1. The issuer provides notice to each plan sponsor provided coverage of this type in the market (and participants and beneficiaries covered under the coverage) of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each plan sponsor provided coverage of this type in the market, the option to purchase all other health insurance coverage currently being offered by the issuer to a group health plan in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the issuer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for coverage.

(b) 1. In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the group market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

a. The issuer provides notice to the commissioner and to each plan sponsor (and participants and beneficiaries covered under the coverage) of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the group market, the issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan in the group market if, for coverage that is available in the market other than only through one (1) or more bona fide associations, the modification is consistent with this chapter and effective on a uniform basis among group health plans with that product.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the group market to employers only through one (1) or more associations, a reference to plan sponsor is deemed,

with respect to coverage provided to an employer member of the association, to include a reference to the employer.

SECTION 9. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

SECTION 10. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans under to KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 11. KRS 304.17-383 is amended to read as follows:

(1) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and after the hearing shall issue a final order approving or disapproving the filing.

(2) In approving or disapproving a filing under subsection (1) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(3) The commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to the hearing if he chooses to participate.

(4) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after an administrative hearing may withdraw approval of rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged. Administrative hearings conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(6) (a) Subsections (1) to (3) of this section shall not apply and premium rates shall be deemed approved upon filing with the Department of Insurance if the filing is accompanied by a loss ratio guarantee, and benefits shall be deemed reasonable in relation to the premium rates so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee shall be in writing and shall contain at least the following:

1. A recitation of the anticipated loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved by the commissioner;

2. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the loss ratio standards referred to in subparagraph 1. of this paragraph. If the annual earned premium volume in Kentucky under the particular policy form is less than one million dollars ($1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form;

3. A guarantee that the actual Kentucky loss ratio results for each year at issue shall be independently audited at the insurer's expense. This audit shall be done in the second quarter of the next year and the audited results shall be reported to the commissioner not later than the date for filing the applicable accident and health policy experience exhibit;

4. A guarantee that affected Kentucky policyholders will be issued a proportional refund, based on premium paid, of the amount necessary to bring the actual aggregate loss ratio up to the anticipated loss ratio standards referred to in subparagraph 1. of this paragraph. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of the last of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from the end of the year at issue until the date of payment. Payment shall be made during the third quarter of the next year; and

5. A guarantee that refunds of less than ten dollars ($10) will be aggregated by the insurer and paid to

the Department of Insurance.

(b) As used in this subsection, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.

(7) (a) At renewal the insurer may replace modified community rates with rates determined in accordance with paragraph (b) of this subsection.

(b) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%).

(c) For purposes of this subsection, "index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

Section 12. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 13. KRS 367.160 is amended to read as follows:

(1) All departments, agencies, officers, and employees of the Commonwealth shall fully cooperate with the Attorney General in carrying out the functions of KRS 367.120 to 367.300.

(2) The persons designated by the Attorney General as utility consumer intervenors shall have the same access to material evidence and information of the Public Service Commission relating to any case before it as other parties to the case.

[~~(3) The persons designated by the Attorney General as health insurance consumer intervenors shall have the same access to material evidence and information of the commissioner of the Department of Insurance relating to any health insurance rate hearings before it as other parties to the hearing.~~]

Section 14. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.

[~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30,~~

~~1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~] If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 15. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to[~~ standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 16. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;
(6) Subtitle 7 -- Investments;
(7) Subtitle 12 -- Trade Practices and Frauds;
(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;
(9) Subtitle *17 -- Sections 3, 6, 7, and 9 of this Act*~~[17A -- Health Benefit Plans]~~;
(10) Subtitle 18 -- *Sections 4, 5, 8, and 10 of this Act*~~[KRS 304.18-050]~~;
(11) Subtitle 25 -- Continuity of Management;
(12) Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(13) Subtitle 37 -- Insurance Holding Company Systems; and
(14) Subtitle 99 -- Penalties.

~~[The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.]~~

SECTION 17. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each individual health insurance policy issued, delivered, or renewed on or after the effective date of this Act that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 18. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each group health insurance policy issued, delivered, or renewed on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 19. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each policy, contract, or plan issued, delivered, or renewed on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 20. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each certificate, agreement, policy, or contract issued, delivered, or renewed by a health maintenance organization on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 21. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An individual health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 22. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A group health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-

eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 23. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A policy, contract, or plan issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 24. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A certificate, agreement, policy, or contract issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after January 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than December 31, 1997, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on January 1, 1998.

(2) A provider-sponsored integrated health delivery network created under this subtitle shall not accept any new business on or after the effective date of this Act. The commissioner shall not issue a certificate of filing to a network on or after the effective date of this Act. KRS 304.17A-300 and 304.17A-310 shall become null and void on January 1, 1998.

(3) No health benefit plans shall be issued, delivered, or renewed under the provisions of this subtitle on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS Chapter 17A until the end of the contract or policy period or December 31, 1997, whichever comes first. The provisions of KRS 304.17A-095 to 304.17A-171 shall become null and void on January 1, 1998.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 26 to 39 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child.

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Experimental treatment" means services or supplies, including treatments, procedures, hospitalizations, drugs, biological products or medical devices, which a peer review panel determines are not of proven benefit for the particular diagnosis or treatment of the covered person's particular condition, or not generally recognized by the medical community as effective or appropriate for the particular diagnosis or treatment of the covered person's particular condition, or provided or performed in special settings for research purposes or under a controlled environment or clinical protocol. Unless otherwise required by law with respect to drugs that have been prescribed for the treatment of a type of cancer for which the drug has not been approved by the United States Food and Drug Administration, the plan shall not cover any services or supplies including treatment, procedures, drugs, biological products, or medical devices or any hospitalization in connection with experimental or investigational services or supplies. The plan shall also not cover any technology or any hospitalization in connection with that technology if that technology is obsolete or ineffective and is not used generally by the medical community for the particular diagnosis or treatment of the covered person's particular condition. Governmental approval of a technology is not necessarily sufficient to render it of proven benefit or appropriate or effective for a particular diagnosis or treatment of the particular condition as provided in this subsection. The plan shall apply the following five (5) criteria in determining whether services or supplies are experimental or investigational:

(a) Any medical device, drug, or biological product shall have received final approval to market by the United States Food and Drug Administration (FDA) for the particular diagnosis or condition. Any other approval granted as an interim step in the FDA regulatory process, such as an investigational device exemption or an investigational new drug exemption, is not sufficient. Once FDA approval has been granted for a particular diagnosis or condition, use of the medical device, drug, or biological product for another diagnosis or condition requires that one (1) or more of the following established reference compendia: the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopeia Drug Information, recognize the usage as appropriate medical treatment. As an alternative to this recognition in one (1) or more of the compendia, the usage of the drug shall be recognized as appropriate if it is recommended by a clinical study and recommended by a review article in a major peer-reviewed professional journal. A medical device, drug, or biological product that meets the tests in this paragraph shall not be considered experimental or investigational. Any drug that the FDA has determined to be contraindicated for the specific treatment for which the drug has been prescribed shall be considered experimental or investigational;

(b) Conclusive evidence from the published peer-review medical literature shall exist that the technology has a definite positive effect on health outcome; this evidence shall include well-designed investigations that have been reproduced by nonaffiliated authoritative sources, with measurable results, backed up by the positive endorsements of national medical bodies or panels regarding scientific efficacy and rationale;

(c) Demonstrated evidence as reflected in the published peer-review medical literature shall exist that over time the technology leads to improvement in health outcomes, such as the beneficial effects outweigh any harmful effects;

(d) Proof as reflected in the published peer-reviewed medical literature shall exist that the technology is at least as effective in improving health outcomes as established technology, or is usable in appropriate clinical contexts in which established technology is not employable; and

(e) Proof as reflected in the published peer-reviewed medical literature shall exist that improvements in health outcomes, as defined in paragraph (c) of this subsection, is possible in standard conditions of medical practice, outside clinical investigatory settings;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or any health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure.

(8) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A.

(9) "Health insurance policy" means "health benefit plan" as defined in this section;

(10) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(11) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(12) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(13) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(14) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(15) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 27 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care physicians and specialists, including available participating physicians, by provider category or specialty and by county. The directory shall include the professional office address of a primary care physician. The directory shall also provide information about participating hospitals. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care physician;

(b) General information about the type of financial incentives between participating physicians under contract with the insurer and other participating health care providers and facilities to which the participating physicians refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network physician is board certified; and

(b) Whether a particular network physician is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the medical specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty medical services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating medical specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of physicians, enrollees, and pharmacists regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating physicians and pharmacists;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in a physician's professional opinion, a physician determines that generic substitution of a pharmaceutical product is medically inappropriate, the physician shall prescribe the pharmaceutical product the physician determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the physician's approval.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A managed care plan that denies coverage for experimental services, including treatments, procedures, drugs, or devices for an enrollee, shall provide the enrollee with a denial letter within twenty (20) working days of the submitted request for the coverage. The letter shall include:

(1) The name and title of the person making the decision;

(2) A statement setting forth the specific medical and scientific reasons for denying coverage;

(3) A description of alternative treatment, services, or supplies covered by the plan, if any; and

(4) A copy of the plan's grievance and appeal procedure.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical protocols, respectively, of the insurer;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care physician from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers.

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements.

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history.

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization of mental health and chemical dependency health services to be provided to the patient, and for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific consent to the redisclosure.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer issuer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 29 to 42 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 29 to 42 of this Act.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the effective date of this section unless it and the insurer meet the requirements of Sections 26 to 39 of this Act

Section 40. KRS 304.17A-080 is repealed, reenacted as a new section of Subtitle 2 of KRS Chapter 304, and amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

  (a) Two (2) representatives of insurers currently offering health benefit plans in the state;

  (b) Two (2) practicing health care providers; and

  (c) Two (2) representatives of purchasers of health benefit plans.

(3) At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

  (a) ~~[The design of the standard health benefit plans pursuant to KRS 304.17A-160;~~

  ~~(b)]~~ The rate-filing process for all health benefit plans;

  (b)~~[(c)]~~The definition of high-risk conditions;

  (c)~~[(d)]~~The administrative regulations concerning this subtitle to be promulgated by the department; and

  (d)~~[(e)]~~Other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

~~[(5) The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner.]~~

Section 41. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 26. Effective January 1, 1998, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans -- Certification.

304.17A-095 Insurer issuing health benefit plan must file rates and charges -- Commissioner's approval -- Hearing -- Notification of Attorney General -- Administrative regulations.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.

304.17A-130 Risk adjustment process -- Authority for administrative regulations.

304.17A-135 Coverage for treatment of breast cancer.

304.17A-140 Coverage applicable to children to include legally-adopted children.

304.17A-145 Maternity coverage to include specified amounts of inpatient care for mothers and newly-born children -- Exemption.

304.17A-150 Unfair trade practices.

304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

304.17A-170 Definitions for KRS 304.17A-170 and 304.17A-171.

304.17A-171 Requirements for health benefit plans that include chiropractic benefits.

304.17A-300 Provider-sponsored integrated health delivery network -- Qualifications -- Fees -- Network subject to provisions of other subtitles.

304.17A-310 Financial solvency requirements for network.

Section 27. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth and premium rates have increased which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and Sections 1 to 39 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 54 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 89, Between lines 15 and 16, Insert the following:

"SECTION 63. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet, after consultation with the secretary for the Cabinet for Human Resources, shall on a quarterly basis certify to the Interim Committee on Appropriations and Revenue the general fund savings realized from any managed care program for Medicaid recipients.

(2) The certification shall indicate the following:

- ***(a) The means by which savings were achieved, including a description of the discrete procedure used to achieve the savings; and***
- ***(b) The amount saved as a result of the specific procedure, including an explanation as to the calculations and assumptions used in determining the amount.***

(3) The amount certified by the secretary under this section shall be transferred to a trust account to be utilized by the secretary of the Cabinet for Human Resources to improve the health care delivery system by providing health care coverage for additional categories of individuals and families with incomes up to one hundred percent (100%) of the federal poverty guidelines. The commissioner for Medicaid services shall provide within ninety (90) days of the effective date of this Act the estimated cost for the provision of a health benefit plan set forth in this section. The funds in the trust account shall not lapse. The secretary shall give priority in utilizing any appropriated trust account funds to matching available federal funds in the Medicaid program.

(4) The funds shall be utilized to make payment for a basic health benefit plan, which shall be limited to medically necessary acute care hospitalization, in-hospital physician care, and other necessary in-hospital services. Individuals eligible for the basic health benefit plan shall make a ten dollar ($10) per month contribution to the plan. Families eligible for the basic health benefit plan shall make a twenty-five dollar ($25) per month contribution to the plan. Premium payments may be adjusted in accordance with the income of the individual or family. The health benefit plan shall be available when the savings achieved are equivalent to the Medicaid commissioner's estimated cost for the plan.

(5) The commissioner for Medicaid services shall expand the plan to two hundred percent (200%) of poverty as funds become available. Contributions shall be increased proportionate to participants' income."; and

On page 89, line 16, renumbering "Section 63" as "Section 64" and renumbering all the succeeding sections accordingly.

Floor Amendment No. 55 to the House Committee Substitute to **SB 1**, by Representative Anderson:

Page 1, by deleting everything in the bill after the enacting clause and inserting:

"SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169);

(c) 42 U.S.C. sec. 300bb.

(2) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C. sec. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 7 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(3) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(4) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a health maintenance organization, licensed under this chapter. It does not include a group health plan.

(5) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169);

(c) 42 U.S.C. sec. 300bb.

(2) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C. sec. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 8 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the

provision or program.

(3) "Group health plan" means an employee welfare benefit plan as defined in 29 U.S.C. sec. 1002(1) to the extent that the plan provides medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(4) "Group health insurance coverage" means, in connection with a group health plan, health insurance coverage offered in connection with such a plan.

(5) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(6) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a health maintenance organization, licensed under this chapter. It does not include a group health plan.

SECTION 3. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an eligible individual desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual and shall comply with the provisions of 42 U.S.C. sec. 300gg-41.

(2) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an individual, who is not an eligible individual under subsection (1) of this section, desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual if the individual has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of this Act and is covered under an individual health benefit plan on the effective date of this Act or at any time during the sixty (60) days immediately preceding the effective date of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise:

(a) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year.

(b) "Small group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan maintained by a small employer.

(2) Each health insurance issuer that offers health insurance coverage in the small group market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and shall comply with the provisions of 42 U.S.C. sec. 300gg-11.

SECTION 5. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All group health plans and health insurance issuers offering group health insurance coverage in the Commonwealth shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for pre-existing conditions exclusions, including crediting previous coverage, special enrollment periods, and use of affiliation periods.

SECTION 6. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth shall not impose any preexisting exclusions as to any eligible individual.

(2) Each health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth that chooses to impose a preexisting conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for preexisting conditions exclusions for group health plans.

SECTION 7. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force coverage at the option of the individual.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one (1) or more of the following:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The issuer is ceasing to offer coverage in the individual market in accordance with subsection (3) of this section.

(d) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(e) In the case of health insurance coverage that is made available in the individual market only through one (1) or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of the type may be discontinued by the issuer only if:

1. The issuer provides notice to each covered individual provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

a. The issuer provides notice to the commissioner and to each individual of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one (1) or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member.

SECTION 8. A NEW SECTION OF SUBCHAPTER 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, if a health insurance issuer offers health insurance coverage in the group market in connection with a group health plan, the issuer shall renew or continue in force coverage at the option of the plan sponsor of the plan.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the group market based only on one (1) or more of the following:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules.

(d) The issuer is ceasing to offer coverage in the group market in accordance with subsection (3) of this section.

(e) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with the plan who resides, lives, or works in the service area of the issuer (or in the area for which the issuer is authorized to do business).

(f) In the case of health insurance coverage that is made available in the group market only through one (1) or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the group market, coverage of the type may be discontinued by the issuer in the market only if:

1. The issuer provides notice to each plan sponsor provided coverage of this type in the market (and participants and beneficiaries covered under the coverage) of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each plan sponsor provided coverage of this type in the market, the option to purchase all other health insurance coverage currently being offered by the issuer to a group health plan in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the issuer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for coverage.

(b) 1. In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the group market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

a. The issuer provides notice to the commissioner and to each plan sponsor (and participants and beneficiaries covered under the coverage) of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the group market, the issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan in the group market if, for coverage that is available in the market other than only through one (1) or more bona fide associations, the modification is consistent with this chapter and effective on a uniform basis among group health plans with that product.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the group market to employers only through one (1) or more associations, a reference to plan sponsor is deemed, with respect to coverage provided to an employer member of the association, to include a reference to the employer.

SECTION 9. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

SECTION 10. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans under to KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 11. KRS 304.17-383 is amended to read as follows:

(1) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and after the hearing shall issue a final order approving or disapproving the filing.

(2) In approving or disapproving a filing under subsection (1) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(3) The commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to the hearing if he chooses to participate.

(4) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after an administrative hearing may withdraw approval of rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged. Administrative hearings conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(6) (a) Subsections (1) to (3) of this section shall not apply and premium rates shall be deemed approved upon filing with the Department of Insurance if the filing is accompanied by a loss ratio guarantee, and benefits shall be deemed reasonable in relation to the premium rates so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee shall be in writing and shall contain at least the following:

1. A recitation of the anticipated loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved by the commissioner;

2. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the loss ratio standards referred to in subparagraph 1. of this paragraph. If the annual earned premium volume in Kentucky under the particular policy form is less than one million dollars ($1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form;

3. A guarantee that the actual Kentucky loss ratio results for each year at issue shall be independently audited at the insurer's expense. This audit shall be done in the second quarter of the next year and the audited results shall be reported to the commissioner not later than the date for filing the applicable accident and health policy experience exhibit;

4. A guarantee that affected Kentucky policyholders will be issued a proportional refund, based on premium paid, of the amount necessary to bring the actual aggregate loss ratio up to the anticipated loss ratio standards referred to in subparagraph 1. of this paragraph. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of the last of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from the end of the year at issue until the date of payment. Payment shall be made during the third quarter of the next year; and

5. A guarantee that refunds of less than ten dollars ($10) will be aggregated by the insurer and paid to the Department of Insurance.

(b) As used in this subsection, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.

Section 12. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to

the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 13. KRS 367.160 is amended to read as follows:

(1) All departments, agencies, officers, and employees of the Commonwealth shall fully cooperate with the Attorney General in carrying out the functions of KRS 367.120 to 367.300.

(2) The persons designated by the Attorney General as utility consumer intervenors shall have the same access to material evidence and information of the Public Service Commission relating to any case before it as other parties to the case.

[~~(3) The persons designated by the Attorney General as health insurance consumer intervenors shall have the same access to material evidence and information of the commissioner of the Department of Insurance relating to any health insurance rate hearings before it as other parties to the hearing.~~]

Section 14. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.

[~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~] If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 15. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to[~~ standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for

which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 16. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 – Scope – General Definitions and Provisions;
(2) Subtitle 2 – Insurance Commissioner;
(3) Subtitle 3 – Authorization of Insurers and General Requirements;
(4) Subtitle 4 – Fees and Taxes;
(5) Subtitle 5 – Kinds of Insurance – Limits of Risk – Reinsurance;
(6) Subtitle 7 – Investments;
(7) Subtitle 12 – Trade Practices and Frauds;
(8) Subtitle 14 – KRS 304.14-500 to 304.14-560;
(9) Subtitle ***17 -- Sections 3, 6, 7, and 9 of this Act***~~[17A -- Health Benefit Plans]~~;
(10) Subtitle 18 -- ***Sections 4, 5, 8, and 10 of this Act***~~[KRS 304.18-050]~~;
(11) Subtitle 25 – Continuity of Management;
(12) Subtitle 33 – Insurers Rehabilitation and Liquidation;
(13) Subtitle 37 – Insurance Holding Company Systems; and
(14) Subtitle 99 – Penalties.

~~[The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.]~~

SECTION 17. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each individual health insurance policy issued, delivered, or renewed on or after the effective date of this Act that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 18. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each group health insurance policy issued, delivered, or renewed on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 19. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each policy, contract, or plan issued, delivered, or renewed on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 20. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each certificate, agreement, policy, or contract issued, delivered, or renewed by a health maintenance organization on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 21. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An individual health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 22. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A group health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 23. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A policy, contract, or plan issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 24. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A certificate, agreement, policy, or contract issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after January 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than December 31, 1997, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on January 1, 1998.

(2) A provider-sponsored integrated health delivery network created under this subtitle shall not accept any new business on or after the effective date of this Act. The commissioner shall not issue a certificate of filing to a network on or after the effective date of this Act. KRS 304.17A-300 and 304.17A-310 shall become null and void on January 1, 1998.

(3) No health benefit plans shall be issued, delivered, or renewed under the provisions of this subtitle on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS Chapter 17A until the end of the contract or policy period or December 31, 1997, whichever comes first. The provisions of KRS 304.17A-095 to 304.17A-171 shall become null and void on January 1, 1998.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 26 to 39 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

- *(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:*
  - *1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;*
  - *2. Serious impairment to bodily functions; or*
  - *3. Serious dysfunction of any bodily organ or part; or*
- *(b) With respect to a pregnant woman who is having contractions:*
  - *1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or*
  - *2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child.*

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Experimental treatment" means services or supplies, including treatments, procedures, hospitalizations, drugs, biological products or medical devices, which a peer review panel determines are not of proven benefit for the particular diagnosis or treatment of the covered person's particular condition, or not generally recognized by the medical community as effective or appropriate for the particular diagnosis or treatment of the covered person's particular condition, or provided or performed in special settings for research purposes or under a controlled environment or clinical protocol. Unless otherwise required by law with respect to drugs that have been prescribed for the treatment of a type of cancer for which the drug has not been approved by the United States Food and Drug Administration, the plan shall not cover any services or supplies including treatment, procedures, drugs, biological products, or medical devices or any hospitalization in connection with experimental or investigational services or supplies. The plan shall also not cover any technology or any hospitalization in connection with that technology if that technology is obsolete or ineffective and is not used generally by the medical community for the particular diagnosis or treatment of the covered person's particular condition. Governmental approval of a technology is not necessarily sufficient to render it of proven benefit or appropriate or effective for a particular diagnosis or treatment

of the particular condition as provided in this subsection. The plan shall apply the following five (5) criteria in determining whether services or supplies are experimental or investigational:

(a) Any medical device, drug, or biological product shall have received final approval to market by the United States Food and Drug Administration (FDA) for the particular diagnosis or condition. Any other approval granted as an interim step in the FDA regulatory process, such as an investigational device exemption or an investigational new drug exemption, is not sufficient. Once FDA approval has been granted for a particular diagnosis or condition, use of the medical device, drug, or biological product for another diagnosis or condition requires that one (1) or more of the following established reference compendia: the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopeia Drug Information, recognize the usage as appropriate medical treatment. As an alternative to this recognition in one (1) or more of the compendia, the usage of the drug shall be recognized as appropriate if it is recommended by a clinical study and recommended by a review article in a major peer-reviewed professional journal. A medical device, drug, or biological product that meets the tests in this paragraph shall not be considered experimental or investigational. Any drug that the FDA has determined to be contraindicated for the specific treatment for which the drug has been prescribed shall be considered experimental or investigational;

(b) Conclusive evidence from the published peer-review medical literature shall exist that the technology has a definite positive effect on health outcome; this evidence shall include well-designed investigations that have been reproduced by nonaffiliated authoritative sources, with measurable results, backed up by the positive endorsements of national medical bodies or panels regarding scientific efficacy and rationale;

(c) Demonstrated evidence as reflected in the published peer-review medical literature shall exist that over time the technology leads to improvement in health outcomes, such as the beneficial effects outweigh any harmful effects;

(d) Proof as reflected in the published peer-reviewed medical literature shall exist that the technology is at least as effective in improving health outcomes as established technology, or is usable in appropriate clinical contexts in which established technology is not employable; and

(e) Proof as reflected in the published peer-reviewed medical literature shall exist that improvements in health outcomes, as defined in paragraph (c) of this subsection, is possible in standard conditions of medical practice, outside clinical investigatory settings;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or any health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure.

(8) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A.

(9) "Health insurance policy" means "health benefit plan" as defined in this section;

(10) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer

welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(11) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(12) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(13) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(14) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(15) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 27 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care physicians and specialists, including available participating physicians, by provider category or specialty and by county. The directory shall include the professional office address of a primary care physician. The directory shall also provide information about participating hospitals. The insurer shall promptly notify each

covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care physician;

(b) General information about the type of financial incentives between participating physicians under contract with the insurer and other participating health care providers and facilities to which the participating physicians refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network physician is board certified; and

(b) Whether a particular network physician is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the medical specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty medical services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating medical specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of physicians, enrollees, and pharmacists regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating physicians and pharmacists;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in a physician's professional opinion, a physician determines that generic substitution of a pharmaceutical product is medically inappropriate, the physician shall prescribe the pharmaceutical product the physician determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the physician's approval.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A managed care plan that denies coverage for experimental services, including treatments, procedures, drugs, or devices for an enrollee, shall provide the enrollee with a denial letter within twenty (20) working days of the submitted request for the coverage. The letter shall include:

(1) The name and title of the person making the decision;

(2) A statement setting forth the specific medical and scientific reasons for denying coverage;

(3) A description of alternative treatment, services, or supplies covered by the plan, if any; and

(4) A copy of the plan's grievance and appeal procedure.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical protocols, respectively, of the insurer;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care physician from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking

appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers.

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements.

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history.

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization of mental health and chemical dependency health services to be provided to the patient, and for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific consent to the redisclosure.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer issuer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 29 to 42 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 29 to 42 of this Act.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the effective date of this section unless it and the insurer meet the requirements of Sections 26 to 39 of this Act

Section 40. KRS 304.17A-080 is repealed, reenacted as a new section of Subtitle 2 of KRS Chapter 304, and amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

(a) [~~The design of the standard health benefit plans pursuant to KRS 304.17A-160;~~

~~(b)~~] The rate-filing process for all health benefit plans;

(b)[~~(c)~~]The definition of high-risk conditions;

(c)[~~(d)~~]The administrative regulations concerning this subtitle to be promulgated by the department; and

(d)[~~(e)~~]Other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

[~~(5) The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner.~~]

Section 41. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 – Refunds – Suspension of certificate of authority – Notification of review.

Section 26. Effective January 1, 1998, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance – Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans – Certification.

304.17A-095 Insurer issuing health benefit plan must file rates and charges – Commissioner's approval – Hearing – Notification of Attorney General – Administrative regulations.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans – Geographic rating areas – Exemption – Permitted deviation from index community rates.

304.17A-130 Risk adjustment process – Authority for administrative regulations.

304.17A-135 Coverage for treatment of breast cancer.

304.17A-140 Coverage applicable to children to include legally-adopted children.

304.17A-145 Maternity coverage to include specified amounts of inpatient care for mothers and newly-born children – Exemption.

304.17A-150 Unfair trade practices.

304.17A-160 Standard health benefit plans – Written agreement required before provider may be represented as participating.

304.17A-170 Definitions for KRS 304.17A-170 and 304.17A-171.

304.17A-171 Requirements for health benefit plans that include chiropractic benefits.

304.17A-300 Provider-sponsored integrated health delivery network – Qualifications – Fees – Network subject to provisions of other subtitles.

304.17A-310 Financial solvency requirements for network.

Section 27. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth and premium rates have increased which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and Sections 1 to 39 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 56 to **SB 1**, by Representative Mason:

On page 7, between lines 15 and 16, by inserting the following new subsection:

"***(3) Each insurer that offers health benefit plan coverage in the small group market shall also offer health benefit plan coverage in the individual market.***"; and

On page 7, between lines 24 and 25, by inserting the following new subsection:

"***(3) All group health plans and health insurers, not ERISA exempt, who offer group health benefit plan coverage in the Commonwealth shall also offer health benefit plan coverage in the individual market.***"; and

On page 11, line 11, after the word "***plan***", by inserting the words "***, and health insurers doing business in the small group market shall offer the standard health benefit plan to individuals in the individual market***"; and

On page 11, line 26, by deleting the words "***elects to offer***" and inserting the word "***offers***"; and

On page 12, line 4, after the word "***sell.***", by inserting the following:

"***Any health insurer that offers health benefit plans in the small group market in this state shall, as a condition of offering health benefit plans in the small group market after December 31, 1997, offer and actively market the standard health benefit plan in the individual market.***".

Floor Amendment No. 57 to **SB 1**, by Representative Mason:

On page 57, after line 27, By inserting the following:

"***(d) Subsequent savings from paragraph (c) of this subsection shall be passed along to the plan enrollees in the form of a premium reduction.***".

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, October 10, 1997.

The motion that the House adjourn until 10:00 a.m., Friday, October 10, 1997 was adopted by voice vote.

FRIDAY, OCTOBER 10, 1997

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend R. Z. Miller, Spirit of Peace Missionary Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Burch.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of October 9, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 12, by Representative Stumbo: A RESOLUTION recognizing October as Crime Prevention Month.

HR 13, by Representative Riner: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lyman T. Johnson and the living God who created him.

HR 14, by Representatives Richards and Barrows: A RESOLUTION congratulating Kentucky and Kentucky's public education system for its selection as a winner of the Innovations in American Government Award.

HR 15, by Representative Barrows: A RESOLUTION relating to group health insurance coverage of state employees.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 1** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:21 a.m.)

HB 1 delivered to the Senate and signed by the President. Delivered to the Governor on October 10, 1997 at 11:38 a.m.

Orders of the Day

SB 1, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the House Committee Substitute to **SB 1**. Agreed.

Representative Crenshaw moved the adoption of Floor Amendment No. 5 to the House Committee Substitute to **SB 1**. Agreed.

Representative Crenshaw moved the adoption of Floor Amendment No. 6 to the House Committee Substitute to **SB 1**. Agreed.

Representative Nesler moved the adoption of Floor Amendment No. 7 to the House Committee Substitute to **SB 1**. Agreed.

Representative Gooch moved the adoption of Floor Amendment No. 13 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 13 to the House Committee Substitute to **SB 1** the vote was **Yeas 33**--J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bratcher, Brown, De. Butler, Callahan, L. Clark, Crimm, Gooch, Hatcher, Haydon, Hogancamp, Johns, Long, Marzian, McKee, Moberly, Napier, Polston, Pope, Richards, Riggs, Scott, Siler, Sims, Treesh, Wayne, Weaver. **Nays 61**--Adkins, Alexander, Allen, Anderson, Bowling, Brandstetter, Dw. Butler, Cave, P. Clark, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Curd, Damron, DeWeese, Ford, Gee, Geveden, D. Graham,

G. Graham, Gray, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Jordan, Kerr, Lee, Lile, Lindsay, Lovell, Marcotte, Maricle, Mason, Miniard, Murgatroyd, Nesler, Newsome, Nunn, Palumbo, Rader, Rasche, Ratliff, Reinhardt, Simpson, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Turner, Vincent, Walton,Wilkey, Yonts, Zimmerman. Floor Amendment No. 13 to the House Committee Substitute to **SB 1** was rejected.

Representative Gooch moved the adoption of Floor Amendment No. 44 to the House Committee Substitute. Agreed.

Representative Gooch moved that **SB 1**, by way of House Committee Substitute as amended, be passed.

Representative Nunn moved the adoption of Floor Amendment No. 38 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 38 to the House Committee Substitute to **SB 1** the vote was **Yeas 61**--J. Adams, Adkins, Alexander, Allen, Anderson, Bowling, Brandstetter, Bratcher, Dw. Butler, P. Clark, J. Clarke, Coleman, Collins, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Gee, Geveden, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Lile, Lindsay, Long, Lovell, Maricle, Marzian, Mason, Miniard, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Ratliff, Reinhardt, Riner, Scott, Simpson, Stacy, Stein, Stewart, Stumbo, Turner, Vincent, Wayne, Zimmerman. **Nays 34**--R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brown, De. Butler, Callahan, Cave, L. Clark, Colter, Cox, Crall, Ford, Gooch, Haydon, Hogancamp, Kerr, Lee, Marcotte, McKee, Moberly, Murgatroyd, Richards, Riggs, Siler, Stine, Thomas, Treesh, Walton, Weaver, Wilkey, Yonts. Floor Amendment No. 38 to the House Committee Substitute to **SB 1** was adopted.

Representative Crall moved the adoption of Floor Amendment No. 52 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 52 to the House Committee Substitute to **SB 1** the vote was **Yeas 24**--Allen, Baugh, Brandstetter, Dw. Butler, Cave, Cox, Crall, Crimm, Damron, Ford, Gee, Hogancamp, Hoover, Kerr, Marcotte, Maricle, Polston, Rader, Stewart, Stine, Treesh, Turner, Walton, Zimmerman. **Nays 70**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, Ballard, Barrows, Bowling, Bratcher, Brown, Bruce, De. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Curd, Deskins, DeWeese, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Nesler, Newsome, Nunn, Palumbo, Pope, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Vincent, Wayne, Weaver, Wilkey, Yonts. Floor Amendment No. 52 to the House Committee Substitute to **SB 1** was rejected.

Representative Long moved the adoption of Floor Amendment No. 1 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 1 to the House Committee Substitute **SB 1** the vote was **Yeas 42**--J. Adams, R. Adams, Adkins, Allen, Anderson, A. Arnold, Baugh, Brandstetter, P. Clark, J. Clarke, Coleman, Crimm, Damron, Gee, Geveden, D. Graham, Gray, Haydon, Hoffman, Hoover, Horlander, Johns, Jordan, Lee, Lindsay, Long, Lovell, Maricle, Marzian, Miniard, Moberly, Nesler, Polston, Riggs, Scott, Simpson, Stein, Treesh, Vincent, Walton, Wayne, Weaver. **Nays 50**--Alexander, J. Arnold, Ballard, Barrows, Bowling, Brown, Bruce, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Collins, Colter, Crall, Crenshaw, Curd, Deskins, Ford, Gooch, G. Graham, Hatcher, Heleringer, Jenkins, Kerr, Marcotte, Mason, McKee, Murgatroyd, Napier, Newsome, Palumbo, Pope, Rader, Rasche, Ratliff, Richards, Riner, Siler, Sims, Stacy, Stewart, Stine, Stumbo, Thomas, Turner, Wilkey, Worthington, Yonts, Zimmerman. Floor Amendment No. 1 to the House Committee Substitute to **SB 1** was rejected.

Former member of the House, Ron Cyrus, was granted floor privileges.

Orders of the Day (Continued)

Representative Mason moved the adoption of Floor Amendment No. 56 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 56 to the House Committee Substitute to **SB 1** the vote was **Yeas 28**--Adkins, Alexander, Bowling, P. Clark, Collins, Crenshaw, Damron, Deskins, D. Graham, Hatcher, Jenkins, Johns, Jordan, Marzian, Mason, Miniard, Napier, Newsome, Nunn, Palumbo, Polston, Ratliff, Riner, Stacy, Stein, Stewart, Stumbo, Wayne. **Nays 61**--J. Adams, R. Adams, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Brandstetter, Brown, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, J. Clarke, Coleman, Colter, Cox, Crall, Crimm, DeWeese, Ford, Gee, Geveden, Gooch, G. Graham, Gray, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Maricle, McKee, Moberly, Murgatroyd, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stine, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Yonts, Zimmerman. Floor Amendment No. 56 to the House Committee Substitute to **SB 1** was rejected.

Representative Stumbo moved the adoption of Floor Amendment No. 47 to the House Committee Substitute to **SB 1**.

Speaker ProTempore L. Clark assumed the chair. Speaker Richards resumed the chair.

On the roll call to adopt Floor Amendment No. 47 to the House Committee Substitute to **SB 1** the vote was **Yeas 49**--Adkins, Alexander, Allen, Anderson, Ballard, Bowling, Brandstetter, Bratcher, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Cox, Crenshaw, Damron, Deskins, DeWeese, Gee, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Hoover, Jenkins, Johns, Lile, Lovell, Maricle, Mason, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riner, Stacy, Stein, Stewart, Stumbo, Turner, Vincent, Wayne, Zimmerman. **Nays 50**--J. Adams, R. Adams, A. Arnold, J. Arnold, Barrows, Baugh, Brown, Bruce, De. Butler, Callahan, L. Clark, Collins, Colter, Crall, Crimm, Curd, Ford, Geveden, Gooch, Hatcher, Haydon, Hogancamp, Horlander, Jordan, Kerr, Lee, Lindsay, Long, Marcotte, Marzian, McKee, Miniard, Moberly, Murgatroyd, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stine, Thomas, Treesh, Walton, Weaver, Wilkey, Worthington, Yonts. Floor Amendment No. 47 to the House Committee Substitute to **SB 1** was rejected.

Representative Crall moved the adoption of Floor Amendment No.53 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 53 to the House Committee Substitute to **SB 1** the vote was **Yeas 33**--Allen, Anderson, Baugh, Brandstetter, Bruce, Dw. Butler, Cave, P. Clark, Colter, Cox, Crall, Damron, Ford, Gee, Heleringer, Hogancamp, Hoover, Kerr, Lile, Marcotte, Maricle, Miniard, Napier, Polston, Rader, Reinhardt, Stewart, Stine, Treesh, Turner, Vincent, Walton, Zimmerman. **Nays 63**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, De. Butler, Callahan, L. Clark, J. Clarke, Coleman, Collins, Crenshaw, Curd, Deskins, DeWeese, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Lindsay, Long, Lovell, Marzian, Mason, McKee, Moberly, Murgatroyd, Nesler, Newsome, Nunn, Palumbo, Pope, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stumbo, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts. Floor Amendment No. 53 to the House Committee Substitute to **SB 1** rejected.

Representative Gooch moved that **SB 1**, by way of House Committee Substitute as amended, be passed.

Representative Mason moved the adoption of Floor Amendment No. 57 to the House Committee Substitute to **SB 1**. Rejected.

Representative Mason moved the adoption of Floor Amendment No. 51 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 51 to the House Committee Substitute to **SB 1** the vote was **Yeas 39**--Adkins, Alexander, Bowling, P. Clark, J. Clarke, Coleman, Collins, Crenshaw, Damron, Deskins, DeWeese, Gee, D. Graham, Gray, Hoffman, Horlander, Jenkins, Johns, Jordan, Lindsay, Marzian, Mason, Miniard, Napier, Nesler, Newsome, Nunn, Palumbo, Ratliff, Riner, Simpson, Stacy, Stein, Stewart, Stumbo, Turner, Vincent, Wayne, Worthington. **Nays 44**--J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Brown, Bruce, De. Butler, Callahan, Cave, L. Clark, Colter, Cox, Crall, Crimm, Ford, Geveden, Gooch, G. Graham, Haydon, Heleringer, Hogancamp, Hoover, Kerr, Lovell, McKee, Murgatroyd, Polston, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Sims, Stine, Thomas, Walton, Weaver, Wilkey, Yonts. Floor Amendment No. 51 to the House Committee Substitute to **SB 1** was rejected.

Representative Mason moved the adoption of Floor Amendment No. 54 to the House Committee Substitute to **SB 1**. Representative Baugh inquired whether Floor Amendment No. 54 was germane to **SB 1**. The Speaker ruled that Floor Amendment No. 54 was germane to **SB 1**.

On the roll call to adopt Floor Amendment No. 54 to the House Committee Substitute to **SB 1** the vote was **Yeas 36**--Adkins, Alexander, Bowling, Bratcher, Brown, P. Clark, J. Clarke, Collins, Crenshaw, Curd, Deskins, D. Graham, G. Graham, Heleringer, Hoffman, Jenkins, Jordan, Lile, Long, Marzian, Mason, McKee, Miniard, Newsome, Nunn, Palumbo, Pope, Ratliff, Riner, Stacy, Stein, Stine, Stumbo, Vincent, Wayne, Zimmerman. **Nays 47**--J. Adams, R. Adams, Allen, A. Arnold, Ballard, Baugh, Brandstetter, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Coleman, Colter, Crimm, Ford, Gee, Geveden, Gooch, Gray, Haydon, Hogancamp, Hoover, Horlander, Johns, Kerr, Lee, Lindsay, Moberly, Polston, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stewart, Thomas, Treesh, Turner, Walton, Weaver, Wilkey, Worthington, Yonts.

Floor Amendment No. 54 to the House Committee Substitute to **SB 1** was rejected. Speaker ProTempore Clark assumed the Chair.

Representative Mason moved the adoption of Floor Amendment No. 37 to the House Committee Substitute to **SB 1**. Rejected.

Representative Gooch moved that **SB 1**, by way of House Committee Substitute as amended, be passed.

Representative Riner moved the adoption of Floor Amendment No. 26 to the House Committee Substitute to **SB 1**.

Speaker Richards resumed the Chair.

On the roll call to adopt Floor Amendment No. 26 to the House Committee Substitute to **SB 1** the vote was **Yeas 36**--Adkins, Alexander, Anderson, Bowling, Bruce, P. Clark, Collins, Crenshaw, Damron, DeWeese, Geveden, G. Graham, Gray, Heleringer, Hoffman, Jenkins, Kerr, Lile, Maricle, Marzian, Miniard, Napier, Palumbo, Pope, Ratliff, Riggs, Riner, Simpson, Stacy, Stein, Stewart, Stine, Vincent, Walton, Wayne, Worthington. **Nays 51**--J. Adams, R. Adams, Allen, A. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Coleman, Colter, Cox, Crall, Crimm, Curd, Ford, Gee, Gooch, D. Graham, Haydon, Hogancamp, Hoover, Horlander, Johns, Lee, Lindsay, Long, Lovell, McKee, Moberly, Murgatroyd, Newsome, Nunn, Polston, Rasche, Richards, Scott, Siler, Sims, Thomas, Treesh, Turner, Weaver, Wilkey, Yonts, Zimmerman. Floor Amendment No. 26 to the House Committee Substitute to **SB 1** was rejected.

Representative Riner moved the adoption of Floor Amendment No. 27 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 27 to the House Committee Substitute to **SB 1** the vote was **Yeas 36**--Adkins, Alexander, Anderson, Ballard, Bowling, Bratcher, P. Clark, Collins, Crenshaw, Damron, Deskins, D. Graham, Gray, Heleringer, Hoffman, Hoover, Jenkins, Johns, Marcotte, Marzian, Mason, Nesler, Palumbo, Ratliff, Riggs, Riner, Simpson, Stacy, Stein, Stewart, Stumbo, Vincent, Walton, Wayne, Worthington, Zimmerman. **Nays 43**--J. Adams, R. Adams, Barrows, Baugh, Brandstetter, Brown, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Coleman, Colter, Cox, Crall, Crimm, Curd, Geveden, Gooch, Haydon, Hogancamp, Horlander, Jordan, Kerr, Lee, Long, McKee, Moberly, Napier, Nunn, Polston, Rader, Rasche, Richards, Scott, Siler, Sims, Stine, Thomas, Treesh, Weaver, Wilkey, Yonts. Floor Amendment No. 27 to the House Committee Substitute to **SB 1** was rejected.

Representative Gray moved the adoption of Floor Amendment No. 43 to the House Committee Subsitute to **SB 1**.

On the roll call to adopt Floor Amenmdent No. 43 to the House Committee Substitute to **SB 1** the vote was **Yeas 60**--J. Adams, Adkins, Alexander, Allen, Anderson, Ballard, Barrows, Bowling, Brandstetter, Bratcher, Brown, P. Clark, Coleman, Collins, Colter, Crenshaw, Curd, Deskins, DeWeese, Gee, Geveden, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Hoover, Jenkins, Johns, Kerr, Lee, Lile, Long, Marcotte, Maricle, McKee, Moberly, Murgatroyd, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Simpson, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Turner, Vincent, Walton, Wayne, Yonts, Zimmerman. **Nays 26**--R. Adams, Baugh, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Cox, Crall, Crimm, Gooch, Haydon, Hogancamp, Horlander, Jordan, Lindsay, Marzian, Nunn, Richards, Riner, Scott, Siler, Sims, Treesh, Weaver, Wilkey. Floor Amendment No. 43 to the House Committee Substitute to **SB 1** was adopted.

Representative Gray moved the adoption of Floor Amendment No. 16 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 16 to the House Committee Substitute to **SB 1** the vote was **Yeas 41**--R. Adams, Adkins, Alexander, Anderson, Bratcher, Brown, Clark, Collins, Crenshaw, Deskins, DeWeese, Gee, Geveden, D. Graham, G. Graham, Heleringer, Hoffman, Jenkins, Johns, Jordan, Lile, Maricle, Marzian, Mason, McKee, Nesler, Polston, Ratliff, Richards, Riner, Simpson, Stacy, Stein, Stewart, Stumbo, Thomas, Turner, Vincent, Wayne, Wilkey. **Nays 46**--Allen, A. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bruce, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Coleman, Colter, Cox, Crall, Crimm, Damron, Ford, Gooch, Hatcher, Haydon, Hogancamp, Hoover, Horlander, Kerr, Lee, Long, Marcotte, Moberly, Murgatroyd, Nunn, Palumbo, Pope, Rader, Rasche, Reinhardt, Riggs, Scott, Siler, Sims, Stine, Treesh, Walton, Weaver, Zimmerman. Floor Amendment No. 16 to the House Committee Substitute to **SB 1** was rejected.

Representative Gray moved the adoption of Floor Amendment No. 14 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 14 to the House Committee Substitute to **SB 1** the vote was **Yeas 42**--Alexander, Bowling, Brown, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Curd, Deskins, DeWeese, Gee, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Jenkins, Johns, Lile, Lindsay, Lovell, Maricle, Marzian, Mason, McKee, Newsome, Nunn, Palumbo, Polston, Pope, Rasche, Ratliff, Riner, Stein, Stewart, Stumbo, Turner, Vincent, Wayne, Yonts. **Nays 49**--J. Adams, R. Adams, Adkins, Allen, Anderson, J. Arnold, Ballard, Brandstetter, Bratcher, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Cox, Crall, Crimm, Ford, Geveden, Gooch, Haydon, Hogancamp, Hoover, Horlander, Jordan, Kerr, Lee, Long, Marcotte, Miniard, Moberly, Murgatroyd, Nesler, Rader, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stine, Thomas, Treesh, Walton, Weaver, Wilkey, Zimmerman. Floor Amendment No. 14 to the House Committee Substitute to **SB 1** was rejected.

Representative Crenshaw moved the adoption of Floor Amendment No. 2 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 2 to the House Committee Substitute to **SB 1** the vote was **Yeas 59**--Adkins, Alexander, Allen, Anderson, A. Arnold, Bowling, Brandstetter, Bratcher, Brown, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Collins, Crall, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Long, Lovell, Maricle, Marzian, McKee, Miniard, Moberly, Napier, Newsome, Nunn, Palumbo, Polston, Pope, Ratliff, Riner, Simpson, Stacy, Stein, Stewart, Stumbo, Turner, Vincent, Wayne, Worthington. **Nays 32**--J. Adams, J. Arnold, Ballard, Barrows, Bruce, De. Butler, Callahan, L. Clark, Colter, Curd, Gooch, Hatcher, Haydon, Kerr, Lindsay, Marcotte, Mason, Murgatroyd, Nesler, Rasche, Reinhardt, Richards, Riggs, Scott, Sims, Stine, Thomas, Walton, Weaver, Wilkey, Yonts, Zimmerman. Floor Amendment No. 2 to the House Committee Substitute to **SB 1** was adopted..

Representative Coleman moved the adoption of Floor Amendment No. 11 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 11 to the House Committee Substitute to **SB 1** the vote was **Yeas 61**--

J. Adams, R. Adams, Adkins, Alexander, Anderson, Barrows, Bowling, Brown, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Damron, Deskins, DeWeese, Gee, Geveden, D. Graham, G. Graham, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riner, Simpson, Stacy, Stein, Stewart, Stine, Stumbo, Turner, Walton, Wayne, Worthington, Yonts, Zimmerman. **Nays 30**--Allen, J. Arnold, Ballard, Baugh, Brandstetter, Bratcher, Bruce, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Crimm, Curd, Ford, Gooch, Hatcher, Haydon, Nesler, Rasche, Richards, Riggs, Scott, Siler, Sims, Thomas, Treesh, Vincent, Weaver, Wilkey. Floor Amendment No. 11 to the House Committee Substitute to **SB 1** was adopted.

Representative Anderson moved the adoption of Floor Amendment No. 33 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 33 to the House Committee Substitute to **SB 1** the vote was **Yeas 36**--Allen, Anderson, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, Colter, Cox, Crimm, Damron, Ford, Gee, D. Graham, Heleringer, Hoffman, Hogancamp, Lile, Lovell, Marcotte, Maricle, Miniard, Napier, Nesler, Polston, Rader, Ratliff, Reinhardt, Stein, Stewart, Stine, Treesh, Turner, Vincent, Walton, Wayne. **Nays 53**--J. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Brown, Bruce, De. Butler, Callahan, L. Clark, Collins, Crenshaw, Curd, Deskins, DeWeese, Geveden, Gooch, Gray, Hatcher, Haydon, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Marzian, Mason, McKee, Moberly, Murgatroyd, Newsome, Nunn, Pope, Rasche, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stumbo, Thomas, Weaver, Wilkey, Yonts. Floor Amendment No. 33 to the House Committee Substitute to **SB 1** was rejected.

Representative Anderson moved the adoption of Floor Amendment No. 34 to the House Committee Substitute to **SB 1**.

Representative Callahan inquired if a fiscal impact note had been filed. Representative Moberly inquired whether Floor Amendment No. 34 to the House Committee Substitute was germane to **SB 1**. The Speaker ruled that Floor Amendment No. 34 to the House Committee Substitute was not germane to **SB 1**.

Representative Maricle moved the adoption of Floor Amendment No. 39 to the House Committee Substitute to **SB 1**.

On the roll call the vote was **Yeas 37**--Adkins, Alexander, Allen, Baugh, Bowling, Bratcher, Dw. Butler, Cave, P. Clark, Collins, Colter, Cox, Crall, Crimm, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Hogancamp, Hoover, Maricle, Mason, Miniard, Napier, Newsome, Palumbo, Polston, Ratliff, Riner, Stewart, Stumbo, Treesh, Turner, Vincent, Walton. **Nays 44**--J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Brandstetter, Brown, De. Butler, Callahan, L. Clark, Coleman, Crenshaw, Gooch, D. Graham, Haydon, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, McKee, Moberly, Pope, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Sims, Stacy, Stein, Thomas, Wayne, Weaver, Wilkey, Yonts. Floor Amendment No. 39 to the House Committee Substitute to **SB 1** was rejected.

Representative Stein moved the adoption of Floor Amendment No. 4 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 4 to the House Committee Substitute to **SB 1** the vote was **Yeas 51**--Adkins, Alexander, Anderson, A. Arnold, Barrows, Bowling, Brandstetter, Cave, P. Clark, J. Clarke, Coleman, Collins, Crenshaw, Damron, Deskins, DeWeese, Geveden, D. Graham, Gray, Heleringer, Hoffman, Hoover, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Maricle, Marzian, Mason, McKee, Moberly, Newsome, Nunn, Palumbo, Rader, Ratliff, Reinhardt, Riner, Simpson, Stacy, Stein, Stewart, Stumbo, Turner, Vincent, Walton, Wayne. **Nays 41**--J. Adams, R. Adams, Allen, J. Arnold, Ballard, Baugh, Bratcher, Brown, Bruce, De. Butler, Dw. Butler, Callahan, L. Clark, Colter, Cox, Crall, Crimm, Curd, Ford, Gee, Gooch, Hatcher, Haydon, Horlander, Kerr, Marcotte, Miniard, Murgatroyd, Rasche, Richards, Riggs, Scott, Siler, Sims, Stine, Thomas, Treesh, Weaver, Wilkey, Worthington, Yonts. Floor Amendment No. 4 to the House Committee Substitute to **SB 1** was adopted.

Representative Riggs moved the previous question on **SB 1**.

On the roll call the vote was **Yeas 20**--R. Adams, J. Arnold, Ballard, Barrows, Brown, De. Butler, Callahan, L. Clark, Colter, Curd, Gooch, Haydon, Jordan, Marzian, Mason, Pope, Riggs, Scott, Siler, Weaver. **Nays 72**--J. Adams, Adkins, Alexander, Allen, Anderson, Baugh, Bowling, Brandstetter, Bratcher, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Collins, Cox, Crall, Crenshaw, Crimm, Damron, Deskins, DeWeese, Ford, Gee, Geveden, D. Graham, Gray, Hatcher, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Kerr, Lee, Lile, Lindsay, Long, Lovell, Maricle, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Rader, Rasche, Ratliff, Reinhardt, Riner, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Worthington, Zimmerman. The motion on the previous question was rejected.

Representative DeWeese moved the adoption of Floor Amendment No. 45 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 45 to the House Committee Substitute to **SB 1** the vote was **Yeas 66**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Bowling, Brandstetter, Brown, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Collins, Cox, Crall, Crenshaw, Damron, Deskins, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Maricle, Mason, Miniard, Moberly, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Ratliff, Reinhardt, Riner, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Turner, Vincent, Wayne, Worthington. **Nays 29**--J. Arnold, Ballard, Barrows, Baugh, Bratcher, De. Butler, Callahan, L. Clark, Crimm, Curd, Gooch, Hatcher, Haydon, Hogancamp, Marcotte, Marzian, McKee, Murgatroyd, Rasche, Richards, Riggs, Scott, Siler, Thomas, Treesh, Walton, Weaver, Wilkey, Yonts. Floor Amendment No. 45 to the House Committee Substitute to **SB 1** was adopted.

Representative Wayne moved the adoption of Floor Amendment No. 29 to the House Committee Substitute to **SB 1**. Agreed.

Representative Wayne moved the adoption of Floor Amendment No. 31 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 31 to the House Committee Substitute to **SB 1** the vote was **Yeas 25**--Alexander, Bowling, Bruce, P. Clark, J. Clarke, Coleman, Crenshaw, Deskins, Geveden, G. Graham, Gray, Horlander, Jenkins, Long, Marzian, Newsome, Nunn, Palumbo, Ratliff, Riner, Stacy, Stein, Stumbo, Turner, Wayne. **Nays 64**--J. Adams, R. Adams, Adkins, Allen, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Collins, Cox, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, Hatcher, Haydon, Hogancamp, Hoover, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Lovell, Marcotte, Maricle, McKee, Miniard, Moberly, Murgatroyd, Napier, Polston, Pope, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Simpson, Sims, Stewart, Stine, Thomas, Treesh, Vincent, Walton, Weaver, Wilkey, Yonts, Zimmerman. Floor Amendment No. 31 to the House Committee Substitute to **SB 1** was rejected.

Representative Wayne moved the adoption of Floor Amendment No. 3 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 3 to the House Committee Substitute to **SB 1** the vote was **Yeas 46**--J. Adams, Adkins, Alexander, Bowling, L. Clark, P. Clark, J. Clarke, Coleman, Crenshaw, Damron, Deskins, DeWeese, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Marzian, Moberly, Napier, Nesler, Newsome, Nunn, Palumbo, Ratliff, Riggs, Riner, Simpson, Stacy, Stein, Stewart, Stine, Turner, Vincent, Walton, Wayne. **Nays 42**--R. Adams, Allen, Anderson, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Bratcher, Brown, De. Butler, Dw. Butler, Callahan, Cave, Collins, Cox, Crall, Crimm, Curd, Ford, Gee, Geveden, Gooch, Haydon, Hogancamp, Lovell, Marcotte, Maricle, McKee, Miniard, Murgatroyd, Polston, Rasche, Reinhardt, Richards, Scott, Siler, Treesh, Weaver, Wilkey, Yonts, Zimmerman. Floor Amendment No. 3 to the House Committee Substitute to **SB 1** was adopted.

Representative Maricle moved the adoption of Floor Amendment No. 40 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 40 to the House Committee Substitute to **SB 1** the vote was **Yeas 28**--Allen, Anderson, Bratcher, Dw. Butler, Cave, P. Clark, Cox, Crall, Crimm, Deskins, DeWeese, Ford, Heleringer, Hogancamp, Lile, Lindsay, Maricle, Miniard, Napier, Newsome, Polston, Ratliff, Reinhardt, Stewart, Stine, Treesh, Turner, Walton. **Nays 56**--J. Adams, R. Adams, Adkins, A. Arnold, Ballard, Barrows, Bowling, Brandstetter, Bruce, De. Butler, Callahan, L. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Curd, Damron, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Long, Lovell, Marzian, Mason, McKee, Moberly, Murgatroyd, Nesler, Nunn, Palumbo, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Thomas, Wayne, Weaver, Wilkey, Yonts. Floor Amendment No. 40 to the House Committee Substitute to **SB 1** was rejected.

Representative Hogancamp moved the adoption of Floor Amendment No. 19 to the House Committee Substitute to **SB 1**. Representative Long inquired whether Floor Amendment No. 19 was germane to **SB 1**. The Speaker ruled that Floor Amendment No. 19 was not germane to **SB 1**.

Representative Marizan moved the adoption of Floor Amendment No. 17 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 17 to the House Committee Substitute to **SB 1** the vote was **Yeas 47**--Adkins, Alexander, Anderson, Bowling, Brown, De. Butler, L. Clark, J. Clarke, Coleman, Collins, Crenshaw, Damron, Deskins, DeWeese, D. Graham, G. Graham, Gray, Hoffman, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Marzian, Mason, McKee, Miniard, Moberly, Nesler, Nunn, Palumbo, Polston, Pope, Ratliff, Riner, Simpson, Sims, Stacy, Stein, Stewart, Stumbo, Turner, Wayne, Zimmerman. **Nays 42**--J. Adams, R. Adams, Allen, Ballard, Barrows, Baugh, Brandstetter, Bratacher, Bruce, Dw. Butler, Callahan, Cave Colter, Cox, Crall, Crimm, Curd, Ford, Gee, Gooch, Hatcher, Haydon, Heleringer, Horlander, Kerr, Marcotte, Maricle, Murgatroyd, Rader, Rasche, Reinhardt, Richards, Riggs, Scott, Siler, Stine, Treesh, Walton, Weaver, Wilkey, Worthington, Yonts. Floor Amendment No. 17 to the House Committee Substitute to **SB 1** was adopted.

Representative Marzian moved the adoption of Floor Amendment No. 9 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 9 to the House Committee Substitute to **SB 1** the vote was **Yeas 78**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Ballard, Bowling, Brandstetter, De. Butler, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Collins, Colter, Crall, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Geveden, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Nunn, Palumbo, Rader, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 9**--Baugh, Bruce, L. Clark, Gooch, Polston, Pope, Rasche, Riggs, Treesh. Floor Amendment No. 9 to the House Committee Substitute to **SB 1** was adopted.

Representative Gooch moved that **SB 1**, by way of House Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 49, Nays 47 (See October 10 , 1997 roll call on **SB 1** - Appendix)

The Speaker announced that **SB 1**, by way of House Committee Substitute as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **SB 1** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo raised a point of order that since **SB 1** contained an emergency clause, a fifty-one vote majority is required for passage. He said the House may reconsider the vote since that majority was not reached in the preceding vote.

Representative Stumbo moved that the motion to reconsider **SB 1**, by way of House Committee Substitute as amended, be removed from the table and that **SB 1** be placed in the Orders of the Day.

On the roll call to remove the motion to reconsider **SB 1** from the table, the vote was **Yeas 51**–J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brown, Bruce, De. Butler, Callahan, L. Clark, P. Clark, Collins, Colter, Crimm, Curd, Geveden, Gooch, Gray, Hatcher, Haydon, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Marcotte, Marzian, McKee, Moberly, Murgatroyd, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stine, Thomas, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 47**--Adkins, Alexander, Allen, Anderson, Bowling, Brandstetter, Bratcher, Dw. Butler, Cave, J. Clarke, Coleman, Cox, Crall, Crenshaw, Damron, Deskins, DeWeese, Ford, Gee, D. Graham, G. Graham, Heleringer, Hoffman, Hogancamp, Hoover, Lile, Lovell, Maricle, Mason, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riner, Stacy, Stein, Stewart, Stumbo, Treesh, Turner, Vincent, Wayne. The motion to remove the motion to reconsider **SB 1** from the table was adopted.

Representative Lindsay moved that the vote on **SB 1**, by way of House Committee Substitute as amended, be reconsidered.

On the roll call to reconsider the vote on **SB 1**, by way of House Committee Substitute as amended, the vote was **Yeas 50**--J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Brown, Bruce, De. Butler, Callahan, L. Clark, Collins, Colter, Crimm, Curd, Ford, Geveden, Gooch, Hatcher, Haydon, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Marcotte, Marzian, McKee, Moberly, Murgatroyd, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stine, Thomas, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 44**--Adkins, Alexander, Allen, Anderson, Baugh, Bowling, Brandstetter, Bratcher, Dw. Butler, Cave, J. Clarke, Coleman, Cox, Crall, Crenshaw, Damron, Deskins, DeWeese, Gee, D. Graham, G. Graham, Heleringer, Hoffman, Hoover, Lile, Lovell, Maricle, Mason, Napier, Newsome, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riner, Stacy, Stein, Stewart, Stumbo, Treesh, Turner, Vincent. The motion that the vote on **SB 1** be reconsidered was adopted.

Motions, Petitions and Communications

Representative Stein moved the adoption of the following **Legislative Citation No. 27**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors The Kentucky Wildcat Football Team for their phenomenal exhibition of skill and determination during the 1997 University of Kentucky Football Season. For inasmuch as it can be said that the talented UK athletes demonstrating a champion's heart, a loyal team spirit and exceptional enthusiasm laid the groundwork for a winning attitude as was noted therein, during the UK/Alabama Football Game on October third when the University of Kentucky Wildcats ceremoniously defeated the Crimson Tide; consequently the Kentucky State Legislature joins the throngs of Wildcat fans in celebrating the new spirit, the new "Mumme" era of Wildcat football. And, let it be noted upon this day that it is legislative intent that this win be the threshold of a new season in University of Kentucky football. **Legislative Citation No. 27** was adopted without objection.

Representative Barrows moved the adoption of the following **HR 14**:

HR 14, A RESOLUTION congratulating Kentucky and Kentucky's public education system for its selection as a winner of the Innovations in American Government Award.

WHEREAS, Kentucky's public education system has been named a $100,000 winner of the Innovations in American Government Award, sponsored by the Ford Foundation and administered by Harvard University's Kennedy School of Government; and

WHEREAS, Kentucky's entry, "Recreating Public Education for Results", was one of only ten winners chosen from more than 1,500 entries representing federal, state, and local government programs; and

WHEREAS, Kentucky's award-winning education system was chosen for its originality of approach and effectiveness in addressing an important public problem; and

WHEREAS, this award would not have been possible without the hard work and dedication of teachers, parents, administrators, students, business and industry, and advocates;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly acknowledges this distinctive national award and the exemplary achievements of the Kentucky public education system, congratulates Kentucky's educators, and encourages all the citizens of the Commonwealth to continue in their pursuit of excellence in education.

Section 2. That the Clerk of the House shall transmit a copy of this Resolution to Commissioner of Education Wilmer S. Cody, Department of Education, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

There being no objection **HR 14** was adopted.

Floor Amendments

Floor Amendment No. 58 to the House Committee Substitute to **SB 1**, by Representative Riggs:

On page 27, line 23, after "***policy,***" by inserting "***long term care policy,***"; and

On page 85, line 16, after "***health***" by inserting "***benefit***"; and

On page 85, line 23, after "***health***" by inserting "***benefit***"; and

On page 85, line 23, by deleting "***or insurer offering health insurance in***"; and

On page 85, line 24, by deleting "***connection with a plan***"; and

On page 85, line 27, after "***health***" by inserting "***benefit***"; and

On page 85, line 27, by deleting "***or a health insurance issuer offering health***"; and

On page 86, line 1, by deleting "***insurance coverage***"; and

On page 86, after line 3, by inserting:

"***(5) For the purposes of this section, "health benefit plan" has the meaning provided in Section 1 of this Act.***".

Motions, Petitions and Communications (Continued)

Representative Coleman moved the adoption of the following **Legislative Citation No. 17**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Kelli L. Smith daughter of Morgan and Donna Bayless, upon being named one of fourteen riders qualifying to represent Kentucky on the 1997 Congress Team at the American Quarter Horse Association Congress in Columbus, Ohio. Kelli, a sophomore at Anderson County High School, is recognized today for the skills she has developed through dedication and hard work that led to her selection for this prestigious team. The entire membership joins with Representative Jack Coleman, Jr. in extending its very best wishes and expresses the hope for her continued success. **Legislative Citation No. 17** was adopted without objection.

Representative Reinhardt moved the adoption of the following **Legislative Citation No. 24**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Norbert Kramer upon his 60th Birthday. In celebration of this memorable event the entire membership joins Representative Jon David Reinhardt in commending Norbert Kramer for a life lived to the fullest and for the vitality of heart which has brought him thus far. This distinguished body hereby extends best wishes on this meaningful occasion of his sixtieth birthday. **Legislative Citation No. 24** was adopted without objection.

Representative Riner moved the adoption of the following **HR 13**:

HR 13, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lyman T. Johnson and the living God who created him.

The most prominent glory of a country is in its God and those who champion His righteousness and justice. A nation's spirit and success depends on its willingness to obey God's law, repent of injustice and unrighteousness, and learn enough from the sins of the past not to repeat them in the future. In life we find many leaders that are great, and some that will even sacrifice their personal comforts for principle, but very few men of the caliber of Lyman T. Johnson that are both great and willing to endure hardship and ridicule for a just cause.

WHEREAS, Lyman T. Johnson was born in Columbia, Tennessee, on June 12, 1906, the eighth of nine children bestowed upon Robert Graves and Mary Dew Johnson, and the grandson of four slaves; and

WHEREAS, Lyman T. Johnson was the devoted husband of Juanita Morrell, who preceded him in death after forty-one years of marriage, and the proud father of a daughter, Yvonne, and a son, Lyman Morrell; and

WHEREAS, Lyman T. Johnson received his high school diploma in 1926 from the preparatory division of Knoxville College; he earned his bachelor's degree in Greek from Virginia Union University in 1930; he received his master's degree in history from the University of Michigan in 1931; and he served his country with distinction in the United States Navy during World War II; and

WHEREAS, Lyman T. Johnson spent thirty-three years teaching history, economics, and mathematics at Louisville's Central High School, and his accomplishments as an educator exemplified his professionalism in the classroom, and his love for his students was apparent by his daily preaching of racial justice and personal confidence and success born of hard work, determination, and self-reliance; and

WHEREAS, Lyman T. Johnson served as assistant principal at Parkland Junior High School, Manley Junior High School, and Flaget High School; he served on the Jefferson County School Board; and he served as president of the Louisville Association of Teachers in Colored Schools, and during such term, he tirelessly fought for and won parity in pay for African-American teachers in the local school system; and

WHEREAS, Lyman T. Johnson will best be remembered as the lion of the local civil rights movement for breaking the color barrier at universities throughout the Commonwealth of Kentucky; he served as plaintiff in a lawsuit that ultimately required the University of Kentucky to admit African-American students, and was the first African-American to attend the University of Kentucky; and

WHEREAS, Lyman T. Johnson had a deep-seeded dual commitment to both desegregation and integration, having been described as the greatest advocate for integration among the races in the Commonwealth of Kentucky; he believed that integration was the only path to true equality between the races, and he was instrumental in the long struggle to integrate public accommodations and housing in Jefferson County; and

WHEREAS, Lyman T. Johnson, thirty years after being admitted to the University of Kentucky, was awarded an honorary degree of doctor of letters from the University of Kentucky, and a fellowship program was created for African-American and older, minority graduate students at the university; he was honored by having Parkland Junior High School renamed Lyman T. Johnson Middle School; and he received numerous other honors and awards for his outstanding service to the community and to the Commonwealth of Kentucky; and

WHEREAS, Lyman T. Johnson, a lifelong resident of Louisville, Kentucky, departed these earthly bounds on October 3, 1997, and all who knew, knew of, and admired him will grieve over their loss as he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Lyman T. Johnson, and extends to his family its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Lyman T. Johnson brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lyman T. Johnson and the living God who created him.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Tom Riner for presentation to the family of Lyman T. Johnson.

There being no objection **HR 13** was adopted.

Representative Deskins moved the adoption of the following **HR 7**:

HR 7, A RESOLUTION concerning international negotiations on global climate change.

WHEREAS, the United States is a signatory to the 1992 Rio Framework Convention on Global Climate Change ("FCCC"), and currently is participating in international negotiations pursuant to a United Nations agreement negotiated in Berlin in 1995 ("Berlin Mandate") to expand the scope of the FCCC; and

WHEREAS, the Berlin Mandate requires the United States, Western Europe, Japan, and other advanced industrial nations ("Developed Country Parties") to negotiate legally binding quantified emission limitation and reduction objectives for greenhouse gases for the post-2000 period, while not increasing the commitments of developing countries such as China, India, and Mexico ("Developing Country Parties"); and

WHEREAS, the United States and other Developed Country Parties are pursuing policies aimed at reducing emissions of greenhouse gases to 1990 levels by the year 2000, pursuant to the terms of the FCCC; and

WHEREAS, man-made emissions of greenhouse gases such as carbon dioxide are caused primarily by the combustion of oil, coal, and natural gas fuels by industries, automobiles, and other uses of energy; and

WHEREAS, the United States relies on carbon-based fossil fuels for more than 90% of its total energy supply; and

WHEREAS, Developing Country Parties exempt from the Berlin Mandate are expected to increase their rates of economic growth and fossil fuel use over the next two decades, and to surpass the United States and other Developed Country Parties in total emissions of greenhouse gases; and

WHEREAS, 1997 studies prepared by the United States government estimate that legally binding requirements for the stabilization of greenhouse gases at 1990 levels would result in the loss of 900,000 jobs in the United States, sharply increased energy prices, reduced family incomes and wages, and severe losses of output in energy-intensive industries; and

WHEREAS, the exemption in the Berlin Mandate for new commitments by Developing Country Parties creates an unfair competitive imbalance between industrial and developing nations, potentially leading to the transfer of jobs and industrial development from Developed Country Parties to Developing Country Parties; and

WHEREAS, increased emission of greenhouse gases by Developing Country Parties would offset any environmental benefits associated with emission reductions achieved by the United States and other Developed Country Parties; and

WHEREAS, on July 25, 1997, the United States Senate adopted Senate Resolution No. 98 by a vote of 95-0, expressing the Sense of the Senate that "the United States should not be a signatory to any protocol to or other agreement regarding, the Framework convention on Climate Change. . . . which would require the advice and consent of the Senate to ratification, which would mandate new commitments to mitigate greenhouse gas emissions for the Developed Country Parties, unless the protocol or other agreement also mandates specific scheduled commitments within the same compliance period to mitigate greenhouse gas emissions for Developing Country Parties"; and

WHEREAS, Senate Resolution No. 98 further states that "the Senate strongly believes that the proposals under negotiation, because of the disparity of treatment between Developed and Developing Countries, and the level of required emission reductions, could result in serious harm to the United States economy, including significant job loss, trade disadvantages, increased energy and consumer costs, and tax increases";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the President of the United States to avoid entering into any new climate treaty commitments pursuant to the Berlin Mandate that could lead to the loss of jobs, income, or economic development in the United States, or to increases in the price of energy to consumers, without corresponding commitments by Developing Country Parties as called for in United States Senate Resolution No. 98.

Section 2. The House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the United States Senate to reject any proposed protocol or other amendment to the FCCC that is inconsistent with this Resolution, or that does not comply fully with United States Senate Resolution No. 98.

Section 3. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to the Honorable Bill Clinton, President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Albert Gore, Vice President, Old Executive Office Building, Washington, D.C. 20510; the Honorable Wendell H. Ford, 173A Russell Senate Office Building, Washington, D.C. 200510; the Honorable Mitch McConnell, 361A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Ed Whitfield, 236 Cannon House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 412 Cannon House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 1004 Longworth Office Building, Washington, D.C. 20515; the Honorable Jim Bunning, 2437 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2468 Rayburn Office Building, Washington, D.C. 20515; and the Honorable Scotty Baesler, 113 Cannon House Office Building, Washington, D.C. 20515.

There being no objection **HR 7** was adopted.

The following member filed a request to have his name added as co-sponsor to a Resolution: **HR 7**, Representative Ford.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 14 to the House Committee Substitute to **SB 1**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "yea" on Floor Amendment No. 17 to the House Committee Substitute to **SB** 1. Agreed.

Representative Rasche moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Rasche moved that he be recorded as voting "nay" on Floor Amendment No. 38 to the House Committee Substitute on **SB 1** . Agreed.

Representative Miniard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Miniard moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 33 to the House Committee Substitute to **SB 1**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Damron moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 52 to the House Committee Substitute to **SB 1**. Agreed.

Representative Stumbo moved that no further business be conducted on this day except for the filing of Floor Amendments. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so until 4:00 p.m., Monday, October 13, 1997. Agreed.

Recess

Representative Stumbo moved that the House to recess until 5:30 p.m.. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 59 to the House Committee Substitute to **SB 1**, by Representative Gray:

On page 15, after line 9, by inserting:

"*(13) (a) No insurer shall exclude any part-time employee from a group health benefit plan made available by the employer to all full-time employees if the part-time employee notifies the employer in writing during the enrollment period prior to the beginning of the policy period of the employee's desire to be covered by the health benefit plan. Nothing in this subsection shall require an employer to pay all or part of the premium for a part-time employee who requests coverage under the group health benefit plan.*

(b) For purposes of this subsection, "part-time employee" means an employee who works at least thirty (30) hours per week for the employer.".

Floor Amendment No. 60 to the House Committee Substitute to **SB 1**, by Representative Stumbo:

On page 18, line 8, by deleting "*Section 27*" and inserting "*Sections 13 to 22*"; and

On page 19, line 4, by deleting "*Section 27*" and inserting "*Sections 13 to 22*"; and

On page 20, line 16, by deleting "*(a)*"; and

On page 20, by deleting lines 19 to 27; and

On page 21, by deleting lines 1 to 14; and

On page 27, line 5, by deleting "*, including the plan created in Section 14 of this Act,*"; and

On page 27, by deleting lines 10 to 27; and

By deleting pages 28 to 43 in their entirety; and

On page 44, by deleting lines 1 to 14; and

On page 27, after line 9, by inserting:

"SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 13 to 22 of this Act may be referred to as the Kentucky Guaranteed Issue Funding Program.

(2) There is hereby created the Kentucky Guaranteed Issue Funding Program, which shall be operational on or before

January 1, 1998. For purposes of Sections 13 to 22 of this Act, "program" means the Kentucky Guaranteed Issue Funding Program.

(3) The General Assembly finds that the guaranteed issue provisions created by this subtitle will provide access to health insurance to residents of Kentucky at costs that, in particular cases, will be substantially above the premiums that individuals will pay for coverage. The Kentucky Guaranteed Issue Funding Program is created to:

(a) Encourage private insurers to participate in the individual market by establishing a means to allocate the losses that insurers issuing coverage in the individual market incur with respect to policies defined as high-cost policies in Section 14 of this Act;

(b) Provide a mechanism for persons with a high-cost condition to maintain access to coverage in the private insurance market by means of the allocation process in paragraph (a) of this subsection; and

(c) Provide a safety net of insurance coverage to persons with a high-cost condition in areas of Kentucky where alternatives for individual coverage are restricted or unavailable as defined in Section 17 of this Act.

(4) The Kentucky Guaranteed Issue Funding Program is also designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(5) All insurers, reinsurers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Issue Funding Program and be subject to an assessment.

(6) As a condition of doing business in the Commonwealth of Kentucky, all insurers writing health insurance policies and plans in this state shall:

(a) 1. Support the program by paying an assessment as defined in Section 14 of this Act; or

2. Participate in the program by insuring individuals with high-cost conditions; and

(b) Pay their proportionate share of the cost of the program based on their market share, as set forth in Section 14 of this Act.

(7) During the transition from the effective date of this Act until the date the program begins issuing coverage, the commissioner shall act on behalf of the program.

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 13 to 22 of this Act, unless the context requires otherwise:

(1) "Actual high-cost policy losses" means a dollar amount calculated by subtracting an insurer's high-cost policy claims from that insurer's high-cost policy premiums.

(2) "Adjusted total high-cost policy losses" means an amount calculated by subtracting all reinsurer assessments under Section 21 of this Act from the total actual high-cost policy losses.

(3) "Allocated high-cost policy losses" means the amount obtained by multiplying the insurer's market share by the amount of the adjusted total high-cost policy losses.

(4) "Assessment" means the following:

(a) With respect to an insurer, an amount calculated by subtracting an insurer's allocated high-cost policy losses from the insurer's actual high-cost policy losses. If the amount calculated is greater than zero, it shall be treated as a refund; and

(b) With respect to a reinsurer, the amount assessed under Section 21 of this Act.

(5) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" does not include an insurer's administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(6) "Covered life" means a person who has health insurance coverage.

(7) "Diagnosed" means any of the following:

(a) A physician, or other qualified health care practitioner as may be defined by the commissioner by administrative regulation, has reached, consistent with ordinary care in that person's profession, the conclusion that a person has contracted or is suffering from a medical condition;

(b) A person who has stated in any application for a health care policy that the person or any person entitled to benefits under the health care policy has contracted or is suffering from any human ailment, deficiency, deformity, disease, injury, pain, or physical condition; or

(c) Such other definition as the commissioner may by administrative regulation reasonably establish.

(8) "First issuance" means the date a person first became eligible for benefits under a health insurance policy.

(9) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market.

(10) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount.

(11) "High-cost policy" means a health insurance policy that is eligible for inclusion in calculating assessments and refunds under the program.

(12) "High-cost policy claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to high-cost policies or such other claim measurement formula as the commissioner may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead cost, with respect to a high-cost policy.

(13) "High-cost policy premiums" means the dollar amount of premiums received by an insurer with respect to high-cost policies.

(14) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers.

(15) "Other coverage" means coverage under any of the following:

- *(a) A group health plan;*
- *(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c, et seq.;*
- *(c) A state plan under Title XIX of the Social Security Act, or any successor program;*
- *(d) Continuation coverage under any COBRA continuation provision as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or*
- *(e) Any other health insurance coverage that is not individual health insurance coverage.*

(16) "Participating carrier" means a carrier that actively offers high-cost policies in the individual health insurance market through the program and accepts all applicants that apply within the carrier's proportionate share.

(17) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(18) "Program" means the Kentucky Guaranteed Issue Funding Program.

(19) "Refund" means an amount to be paid to an insurer by the program.

(20) "Reinsurer" means any person providing health insurance stop-loss coverage.

(21) "Reinsurance premiums" means amounts paid to reinsurers to purchase health insurance stop-loss coverage.

(22) "Supporting carrier" means a carrier not offering high-cost policies in the individual health insurance market through the program; the carrier shall not pay an assessment as defined in this section to assist in subsidizing the costs incurred by the program and any participating carriers.

(23) "Total actual high-cost policy losses" means a dollar amount equal to the sum of the actual high-cost policy losses of the program.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall administer the provisions of Sections 13 to 22 of this Act, and the commissioner's duties and responsibilities to the program include:

- *(a) Appoint an administrator and hire any additional staff required to accomplish the requirements of Sections 13 to 22 of this Act;*
- *(b) Take any legal actions necessary, including action to recover or collect assessments due the program;*
- *(c) Establish administrative and accounting procedures for the operation of the program;*
- *(d) Establish procedures under which applicants and participants in the program may have grievances reviewed by an impartial body and reported to the commissioner;*
- *(e) Collect the fees and any assessments in accordance with Sections 13 to 22 of this Act; and*
- *(f) Provide written reports to the Governor and the Legislative Research Commission annually of all activities of*

the program. The commissioner shall by administrative regulation determine what reports and data need to be reported.

(2) The commissioner shall, by administrative regulation, establish a list of high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health insurers may elect to participate in providing health insurance coverage to individuals with a high-cost condition under the Kentucky Guaranteed Issue Funding Program under the following conditions:

(a) Network-based insurers may limit coverage to those benefit plans offered to persons residing in the geographic area covered by the providers network;

(b) A group carrier may elect to offer coverage to persons with a high-cost condition without otherwise operating in the individual market; and

(c) Any participating carrier may limit the number of persons enrolled with a high-cost condition to the proportion of the insurer's market share. A carrier that reaches its enrollment limit during a given month shall immediately notify the commissioner and shall continue issuing coverage throughout the end of that month. High-cost policies that are enrolled with a carrier on the effective date of this Act and health insurance policies that were not high cost at the time of first issuance, but that become high-risk policies, may be counted toward the enrollment cap of a participating carrier.

(2) The commissioner shall publicize a monthly list of participating carriers that offer coverage to individuals with a high-cost condition.

(3) A health insurance policy shall be considered a high-cost policy and is eligible for inclusion in calculating assessments and refunds under the program if it meets all of the following criteria:

(a) The health insurance policy is purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children;

(b) Under the program, an individual entitled to benefits has a defined high-cost condition;

(c) The lifetime claims that have been paid under the health insurance policy have not exceeded one million dollars ($1,000,000). The lifetime claims limit shall not apply if the policy was issued before the effective date of this section, or is a renewal of a policy that was issued before the effective date of this Act;

(d) The health insurance policy imposes the maximum pre-existing condition exclusion permitted under Section 4 of this Act;

(e) The individual purchasing the health insurance policy is not eligible for or covered by other coverage;

(f) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A; and

(g) Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this subsection even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year.

(4) Notwithstanding any other provision of this section, a health insurance issuer shall not be required to utilize the experience of high cost policies under the program to develop index rates for its individual policies under Section 9 of this Act.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The program shall create the Kentucky Safety Net plan as an alternative coverage limited to those circumstances listed in subsection (3) of this section.

(2) The Kentucky Safety Net portion of the program shall be operational from the date the program becomes operational to April 14, 2000.

(3) The Kentucky Safety Net portion of the program shall be made available on a guaranteed issue basis only to persons with a high-cost condition who are not eligible for coverage through an employer or any governmental program, and only under the following circumstances:

(a) There is no health insurance coverage available from a private participating carrier in the geographic area of the individual; or

(b) There is only one (1) participating carrier offering coverage in the geographic area of the individual.

(4) The Kentucky Safety Net portion of the program shall offer two (2) health benefit plans to participants similar to the health benefit plans in existence at the time of the effective date of this Act. Initially, one (1) plan shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars ($1,000,000) per covered individual. Health benefit plans shall be offered with high and low cost-sharing options. Both plans shall include utilization review and case management.

(a) No pre-existing condition exclusion under the Kentucky Safety Net portion of the program shall be applied to individuals who have eighteen (18) months of creditable coverage with no more than sixty-three (63) days' lapse in coverage prior to application in the program.

(b) A twelve (12) month pre-existing condition exclusion shall be imposed with a credit for prior coverage on individuals who do not meet the requirements of paragraph (a) of this subsection.

(5) Rates for health insurance coverage issued under the Kentucky Safety Net portion of the program shall initially not exceed one hundred fifty percent (150%) of the average statewide rate in the commercial individual market for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(6) Net losses of the Safety Net portion of the program shall be included in the total losses of the program and shall be reimbursed from assessments.

(7) The commissioner shall have the following powers and duties on behalf of the Safety Net portion of the program:

(a) Enter into any contracts as are necessary or proper to carry out the provisions of Sections 13 to 22 of this Act;

(b) Design and offer health insurance policies that are to be available three hundred sixty-five (365) days per year on a guaranteed issue basis to eligible individuals;

(c) Develop a program to publicize the existence of the Safety Net portion of the program, the eligibility requirements for the Safety Net portion of the program, and the procedures for enrollment in the Safety Net portion of the program, and to maintain public awareness of the Safety Net portion of the program;

(d) Determine a fee for licensed insurance agents that place business through, or refer business to, the Safety Net portion of the program;

(e) Provide for reinsurance of risks incurred by the Safety Net portion of the program;

(f) Issue policies of insurance in accordance with the requirements of Sections 13 to 22 of this Act;

(g) Establish and modify from time to time, as appropriate, rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other function appropriate to the operation of the Safety Net portion of the program;

(h) Prepare and distribute application forms and enrollment instruction forms to insurance producers and to the general public;

(i) Appoint or hire appropriate legal, actuarial, and other professionals as necessary to provide technical assistance in the operation of the Safety Net portion of the program;

(j) Provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plans more cost-effective; and

(k) Design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services.

(8) After April 14, 2000, this section shall become null and void.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For a health insurance policy that is a high-cost policy at the time of first issuance, an insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the maximum annual premium that the insurer could charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(2) (a) If a health insurance policy that was not a high-cost policy at the time of first issuance thereafter becomes a high-cost policy, the insurer may not increase the premium on account of the health insurance policy becoming a high-cost policy until the date of first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition. Nothing in this subsection shall prohibit an increase in premiums that could be imposed on an equivalent health insurance policy that was not a high-cost policy. At the time of the first renewal of the health insurance policy after the date on

which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) At the time of each subsequent renewal after the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(3) If an individual was not without health insurance coverage for more than sixty-three (63) days immediately preceding the purchase of a high-cost health insurance policy that is eligible under the program, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy. At the time of each subsequent renewal of the high-cost health insurance policy, the insurer may charge an annual premium as allowed under subsection (1) of this section.

(4) (a) Notwithstanding the provisions of subsections (1, (2), and (3) of this section, the commissioner may, for good cause shown, authorize increasing the annual premium on a high-cost policy up to two hundred percent (200%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) Rates for health benefit plans issued by the program shall not exceed two hundred percent (200%) of the average standard rate for similar coverage.

(c) All rates for health benefit plans issued by the program shall be filed with and approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each calendar year that the program is operating, every insurer shall report to the commissioner and the program, in the form and at the time as the commissioner by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of high-cost policies in force as of December 31;

(c) The amount of the insurer's high-cost policy premiums received during the calendar year covered by the report;

(d) The amount of the insurer's high-cost policy claims paid during the calendar year covered by the report; and

(e) Such other information as the commissioner may, by administrative regulation, require be reported to operate the program.

Nothing contained in this subsection shall prohibit the commissioner from conducting examinations of insurers participating in the plan as is permitted by KRS 304.2-100 or from exercising other powers as are conferred upon the commissioner or the department by this chapter.

(2) At the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the commissioner shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of high-cost policy premiums for all reporting insurers;

(c) The total amount of high-cost policy claims paid by all reporting insurers;

(d) The total amount of total actual high-cost policy losses;

(e) The amount of the adjusted total actual high-cost policy losses;

(f) The amount of each insurer's allocated high-cost policy losses;

(g) The amount of the insurer's assessment or refund; and

(h) Such other information as the commissioner may elect to calculate and report.

The commissioner shall complete the calculation and provide each insurer the results of the calculation within forty-five (45) days after the reporting deadline.

(3) The commissioner shall prepare quarterly estimated calculations for the purposes of allowing all insurers to budget for their annual assessments and refunds.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, the commissioner shall, by administrative regulation promulgated within ninety (90) days of the effective date of this Act, require that high-cost policies contain cost containment features, including managed care and utilization management, to control the amount of high-cost policy losses without creating adverse health care outcomes. If the commissioner fails to timely promulgate administrative regulations, health insurance issuers shall impose cost containment features.

(2) The Health Insurance Advisory Council shall no less than annually review the list of high-cost conditions established by the commissioner under subsection (12) of Section 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes the commissioner deems appropriate. In making recommendations the council, and in making changes the commissioner, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(3) For each calendar year that the program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each reinsurer shall pay an annual assessment to the program in an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Assessments from insurers shall be paid within thirty (30) days after written notice is mailed or delivered to the assessed insurer.

(2) Assessments from reinsurers shall be paid quarterly according to a procedure established by the commissioner by administrative regulation.

(3) Assessments shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located. In addition to being assessed interest, an insurer that fails to timely pay an assessment shall be in violation of this chapter.

(4) All assessments shall be paid in trust for the exclusive benefit of insurers who participate in the program to a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095. The moneys in the trust shall be held separate and apart from any other funds or moneys of any insurer and of the state and shall be used and administered exclusively for the purposes of the program. Withdrawals from the trust shall be made solely for:

(a) Payments of refunds;

(b) Payments of overpayments made by an insurer;

(c) Payments of administrative costs for the administration of the trust, as specified in the trust agreement, but not to exceed the extent of earnings on the prudent investment of the assets of the trust; and

(d) For other purposes necessary to administer the program as the commissioner may by administrative regulation specify, except that the commissioner may not cause his or her expenses or the expenses of the department or of any agency of the state to be paid from the trust.

The commissioner, the State Treasurer, the State Auditor, the Attorney General, and any insurer may inspect the records of the trust during the business hours of the depository.

(5) A refund may be only paid by the depository trustee upon receipt of a written instruction to pay a refund signed by the commissioner or the commissioner's designee, and the depository trustee shall promptly pay a refund upon receipt of a proper instruction. The commissioner shall instruct the depository trustee to make a required refund no later than forty-five (45) days after written notice to the insurer of the commissioner's calculation. All refunds shall

be paid in lawful money of the United States and shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located.

(6) After collecting all assessments to pay for the program, paying all refunds to participating carriers, and paying other administrative costs for each fiscal year, the commissioner shall calculate whether there remain any excess sums on deposit in the trust. Any excess, less any necessary reserves for the operation of the program as certified by the depository trustee, shall be refunded to all insurers who participated in the program for the entire fiscal year in proportion to their market share at the end of the prior year.

(7) Except for records that individually or in the aggregate would or could likely disclose information about the physical or mental condition of an individual, the records of the trust and its operation shall be considered public records for purposes of the Kentucky Open Records Law, KRS 61.870 to 61.884.

SECTION 9. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Insurer tax" means any tax imposed by KRS 136.330, 136.340, 136.350, 136.370, or 304.3-270.

(b) "Allocated high-cost policy losses" has the same meaning as in Section 14 of this Act.

(2) An insurer who participates in the Kentucky Guaranteed Issue Funding Program shall be entitled to a credit against any insurer tax due and payable in the year in which the insurer tax is due and payable. The amount of the tax credit shall be equal to the amount of the insurer's assessment less the amount of refunds paid to the insurer.

(3) If the amount of the insurer tax for any year is less than the amount of tax credit allowed under subsection (2) of this section, the insurer may apply any unused tax credit against insurer taxes due and payable in any of the next five (5) years."; and

On page 44, line 15, by deleting "28" and inserting "24"; and

On page 45, lines 17 and 18, by deleting "***the board of the Kentucky comprehensive health insurance plan,***"; and

On page 45, line 19, by deleting the comma; and

On page 46, line 6, by deleting all words on the line after "***lapse.***"; and

On page 46, by deleting lines 7 and 8; and

On page 46, lines 10 and 11, by deleting "***the board of the Kentucky Comprehensive Health Insurance Plan,***"; and

On page 46, line 12, by deleting the comma; and

On page 46, line 24, by deleting all words on the line after "***1998.***"; and

On page 46, by deleting lines 25 to 27; and

On page 47, line 3, by deleting "29" and inserting "25" and renumbering all subsequent sections; and

On page 47, line 5, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 52, line 14, by deleting "***30***" and inserting "***26***"; and

On page 62, lines 22 and 24, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 2, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 14, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 66, line 21, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 90, after line 8, by inserting:

"304.17A-130 Risk adjustment process -- Authority for administrative regulations."; and

On page 90, by deleting lines 12 to 22; and renumbering all subsequent sections; and

On page 90, line 23, by deleting "62" and inserting "58".

Floor Amendment No. 61 to the House Committee Substitute to **SB 1**, by Representative DeWeese:

On page 18, line 8, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 19, line 4, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 20, line 16, by deleting "***(a)***"; and

On page 20, by deleting lines 19 to 27; and

On page 21, by deleting lines 1 to 14; and

On page 27, line 5, by deleting "***, including the plan created in Section 14 of this Act,***"; and

On page 27, by deleting lines 10 to 27; and

By deleting pages 28 to 43 in their entirety; and

On page 44, by deleting lines 1 to 14; and

On page 27, after line 9, by inserting:

"SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 13 to 22 of this Act may be referred to as the Kentucky Guaranteed Issue Funding Program.

(2) There is hereby created the Kentucky Guaranteed Issue Funding Program, which shall be operational on or before January 1, 1998. For purposes of Sections 13 to 22 of this Act, "program" means the Kentucky Guaranteed Issue Funding Program.

(3) The General Assembly finds that the guaranteed issue provisions created by this subtitle will provide access to health insurance to residents of Kentucky at costs that, in particular cases, will be substantially above the premiums that individuals will pay for coverage. The Kentucky Guaranteed Issue Funding Program is created to:

- *(a) Encourage private insurers to participate in the individual market by establishing a means to allocate the losses that insurers issuing coverage in the individual market incur with respect to policies defined as high-cost policies in Section 14 of this Act;*
- *(b) Provide a mechanism for persons with a high-cost condition to maintain access to coverage in the private insurance market by means of the allocation process in paragraph (a) of this subsection; and*
- *(c) Provide a safety net of insurance coverage to persons with a high-cost condition in areas of Kentucky where alternatives for individual coverage are restricted or unavailable as defined in Section 17 of this Act.*

(4) The Kentucky Guaranteed Issue Funding Program is also designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(5) All insurers, reinsurers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Issue Funding Program and be subject to an assessment.

(6) As a condition of doing business in the Commonwealth of Kentucky, all insurers writing health insurance policies and plans in this state shall:

- *(a) 1. Support the program by paying an assessment as defined in Section 14 of this Act; or*
    - *2. Participate in the program by insuring individuals with high-cost conditions; and*
- *(b) Pay their proportionate share of the cost of the program based on their market share, as set forth in Section 14 of this Act.*

(7) During the transition from the effective date of this Act until the date the program begins issuing coverage, the commissioner shall act on behalf of the program.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 13 to 22 of this Act, unless the context requires otherwise:

(1) "Actual high-cost policy losses" means a dollar amount calculated by subtracting an insurer's high-cost policy claims from that insurer's high-cost policy premiums.

(2) "Adjusted total high-cost policy losses" means an amount calculated by subtracting all reinsurer assessments under Section 21 of this Act from the total actual high-cost policy losses.

(3) "Allocated high-cost policy losses" means the amount obtained by multiplying the insurer's market share by the amount of the adjusted total high-cost policy losses.

(4) "Assessment" means the following:

- *(a) With respect to an insurer, an amount calculated by subtracting an insurer's allocated high-cost policy losses from the insurer's actual high-cost policy losses. If the amount calculated is greater than zero, it shall be treated as a refund; and*
- *(b) With respect to a reinsurer, the amount assessed under Section 21 of this Act.*

(5) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" does not include an insurer's administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(6) "Covered life" means a person who has health insurance coverage.

(7) "Diagnosed" means any of the following:

(a) A physician, or other qualified health care practitioner as may be defined by the commissioner by administrative regulation, has reached, consistent with ordinary care in that person's profession, the conclusion that a person has contracted or is suffering from a medical condition;

(b) A person who has stated in any application for a health care policy that the person or any person entitled to benefits under the health care policy has contracted or is suffering from any human ailment, deficiency, deformity, disease, injury, pain, or physical condition; or

(c) Such other definition as the commissioner may by administrative regulation reasonably establish.

(8) "First issuance" means the date a person first became eligible for benefits under a health insurance policy.

(9) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market.

(10) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount.

(11) "High-cost policy" means a health insurance policy that is eligible for inclusion in calculating assessments and refunds under the program.

(12) "High-cost policy claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to high-cost policies or such other claim measurement formula as the commissioner may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead cost, with respect to a high-cost policy.

(13) "High-cost policy premiums" means the dollar amount of premiums received by an insurer with respect to high-cost policies.

(14) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers.

(15) "Other coverage" means coverage under any of the following:

(a) A group health plan;

(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c, et seq.;

(c) A state plan under Title XIX of the Social Security Act, or any successor program;

(d) Continuation coverage under any COBRA continuation provision as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or

(e) Any other health insurance coverage that is not individual health insurance coverage.

(16) "Participating carrier" means a carrier that actively offers high-cost policies in the individual health insurance market through the program and accepts all applicants that apply within the carrier's proportionate share.

(17) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(18) "Program" means the Kentucky Guaranteed Issue Funding Program.

(19) "Refund" means an amount to be paid to an insurer by the program.

(20) "Reinsurer" means any person providing health insurance stop-loss coverage.

(21) "Reinsurance premiums" means amounts paid to reinsurers to purchase health insurance stop-loss coverage.

(22) "Supporting carrier" means a carrier not offering high-cost policies in the individual health insurance market through the program; the carrier shall not pay an assessment as defined in this section to assist in subsidizing the costs incurred by the program and any participating carriers.

(23) "Total actual high-cost policy losses" means a dollar amount equal to the sum of the actual high-cost policy losses of the program.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall administer the provisions of Sections 13 to 22 of this Act, and the commissioner's duties and responsibilities to the program include:

(a) Appoint an administrator and hire any additional staff required to accomplish the requirements of Sections

13 to 22 of this Act;

(b) Take any legal actions necessary, including action to recover or collect assessments due the program;

(c) Establish administrative and accounting procedures for the operation of the program;

(d) Establish procedures under which applicants and participants in the program may have grievances reviewed by an impartial body and reported to the commissioner;

(e) Collect the fees and any assessments in accordance with Sections 13 to 22 of this Act; and

(f) Provide written reports to the Governor and the Legislative Research Commission annually of all activities of the program. The commissioner shall by administrative regulation determine what reports and data need to be reported.

(2) The commissioner shall, by administrative regulation, establish a list of high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health insurers may elect to participate in providing health insurance coverage to individuals with a high-cost condition under the Kentucky Guaranteed Issue Funding Program under the following conditions:

(a) Network-based insurers may limit coverage to those benefit plans offered to persons residing in the geographic area covered by the providers network;

(b) A group carrier may elect to offer coverage to persons with a high-cost condition without otherwise operating in the individual market; and

(c) Any participating carrier may limit the number of persons enrolled with a high-cost condition to the proportion of the insurer's market share. A carrier that reaches its enrollment limit during a given month shall immediately notify the commissioner and shall continue issuing coverage throughout the end of that month. High-cost policies that are enrolled with a carrier on the effective date of this Act and health insurance policies that were not high cost at the time of first issuance, but that become high-risk policies, may be counted toward the enrollment cap of a participating carrier.

(2) The commissioner shall publicize a monthly list of participating carriers that offer coverage to individuals with a high-cost condition.

(3) A health insurance policy shall be considered a high-cost policy and is eligible for inclusion in calculating assessments and refunds under the program if it meets all of the following criteria:

(a) The health insurance policy is purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children;

(b) Under the program, an individual entitled to benefits has a defined high-cost condition;

(c) The lifetime claims that have been paid under the health insurance policy have not exceeded one million dollars ($1,000,000). The lifetime claims limit shall not apply if the policy was issued before the effective date of this section, or is a renewal of a policy that was issued before the effective date of this Act;

(d) The health insurance policy imposes the maximum pre-existing condition exclusion permitted under Section 4 of this Act;

(e) The individual purchasing the health insurance policy is not eligible for or covered by other coverage;

(f) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A; and

(g) Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this subsection even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year.

(4) Notwithstanding any other provision of this section, a health insurance issuer shall not be required to utilize the experience of high cost policies under the program to develop index rates for its individual policies under Section 9 of this Act.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The program shall create the Kentucky Safety Net plan as an alternative coverage limited to those circumstances listed in subsection (3) of this section.

(2) The Kentucky Safety Net portion of the program shall be operational from the date the program becomes

operational to April 14, 2000.

(3) The Kentucky Safety Net portion of the program shall be made available on a guaranteed issue basis only to persons with a high-cost condition who are not eligible for coverage through an employer or any governmental program, and only under the following circumstances:

(a) There is no health insurance coverage available from a private participating carrier in the geographic area of the individual; or

(b) There is only one (1) participating carrier offering coverage in the geographic area of the individual.

(4) The Kentucky Safety Net portion of the program shall offer two (2) health benefit plans to participants similar to the health benefit plans in existence at the time of the effective date of this Act. Initially, one (1) plan shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars (\$1,000,000) per covered individual. Health benefit plans shall be offered with high and low cost-sharing options. Both plans shall include utilization review and case management.

(a) No pre-existing condition exclusion under the Kentucky Safety Net portion of the program shall be applied to individuals who have eighteen (18) months of creditable coverage with no more than sixty-three (63) days' lapse in coverage prior to application in the program.

(b) A twelve (12) month pre-existing condition exclusion shall be imposed with a credit for prior coverage on individuals who do not meet the requirements of paragraph (a) of this subsection.

(5) Rates for health insurance coverage issued under the Kentucky Safety Net portion of the program shall initially not exceed one hundred fifty percent (150%) of the average statewide rate in the commercial individual market for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(6) Net losses of the Safety Net portion of the program shall be included in the total losses of the program and shall be reimbursed from assessments.

(7) The commissioner shall have the following powers and duties on behalf of the Safety Net portion of the program:

(a) Enter into any contracts as are necessary or proper to carry out the provisions of Sections 13 to 22 of this Act;

(b) Design and offer health insurance policies that are to be available three hundred sixty-five (365) days per year on a guaranteed issue basis to eligible individuals;

(c) Develop a program to publicize the existence of the Safety Net portion of the program, the eligibility requirements for the Safety Net portion of the program, and the procedures for enrollment in the Safety Net portion of the program, and to maintain public awareness of the Safety Net portion of the program;

(d) Determine a fee for licensed insurance agents that place business through, or refer business to, the Safety Net portion of the program;

(e) Provide for reinsurance of risks incurred by the Safety Net portion of the program;

(f) Issue policies of insurance in accordance with the requirements of Sections 13 to 22 of this Act;

(g) Establish and modify from time to time, as appropriate, rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other function appropriate to the operation of the Safety Net portion of the program;

(h) Prepare and distribute application forms and enrollment instruction forms to insurance producers and to the general public;

(i) Appoint or hire appropriate legal, actuarial, and other professionals as necessary to provide technical assistance in the operation of the Safety Net portion of the program;

(j) Provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plans more cost-effective; and

(k) Design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services.

(8) After April 14, 2000, this section shall become null and void.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For a health insurance policy that is a high-cost policy at the time of first issuance, an insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the maximum annual premium that the insurer could charge for an identical health insurance policy with identical benefits issued to the same policyholder but

assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(2) (a) If a health insurance policy that was not a high-cost policy at the time of first issuance thereafter becomes a high-cost policy, the insurer may not increase the premium on account of the health insurance policy becoming a high-cost policy until the date of first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition. Nothing in this subsection shall prohibit an increase in premiums that could be imposed on an equivalent health insurance policy that was not a high-cost policy. At the time of the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) At the time of each subsequent renewal after the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(3) If an individual was not without health insurance coverage for more than sixty-three (63) days immediately preceding the purchase of a high-cost health insurance policy that is eligible under the program, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy. At the time of each subsequent renewal of the high-cost health insurance policy, the insurer may charge an annual premium as allowed under subsection (1) of this section.

(4) (a) Notwithstanding the provisions of subsections (1, (2), and (3) of this section, the commissioner may, for good cause shown, authorize increasing the annual premium on a high-cost policy up to two hundred percent (200%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) Rates for health benefit plans issued by the program shall not exceed two hundred percent (200%) of the average standard rate for similar coverage.

(c) All rates for health benefit plans issued by the program shall be filed with and approved by the commissioner.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each calendar year that the program is operating, every insurer shall report to the commissioner and the program, in the form and at the time as the commissioner by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of high-cost policies in force as of December 31;

(c) The amount of the insurer's high-cost policy premiums received during the calendar year covered by the report;

(d) The amount of the insurer's high-cost policy claims paid during the calendar year covered by the report; and

(e) Such other information as the commissioner may, by administrative regulation, require be reported to operate the program.

Nothing contained in this subsection shall prohibit the commissioner from conducting examinations of insurers participating in the plan as is permitted by KRS 304.2-100 or from exercising other powers as are conferred upon the commissioner or the department by this chapter.

(2) At the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the commissioner shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of high-cost policy premiums for all reporting insurers;

(c) The total amount of high-cost policy claims paid by all reporting insurers;

(d) The total amount of total actual high-cost policy losses;

(e) The amount of the adjusted total actual high-cost policy losses;

(f) The amount of each insurer's allocated high-cost policy losses;

(g) The amount of the insurer's assessment or refund; and

(h) Such other information as the commissioner may elect to calculate and report.

The commissioner shall complete the calculation and provide each insurer the results of the calculation within forty-five (45) days after the reporting deadline.

(3) The commissioner shall prepare quarterly estimated calculations for the purposes of allowing all insurers to budget for their annual assessments and refunds.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, the commissioner shall, by administrative regulation promulgated within ninety (90) days of the effective date of this Act, require that high-cost policies contain cost containment features, including managed care and utilization management, to control the amount of high-cost policy losses without creating adverse health care outcomes. If the commissioner fails to timely promulgate administrative regulations, health insurance issuers shall impose cost containment features.

(2) The Health Insurance Advisory Council shall no less than annually review the list of high-cost conditions established by the commissioner under subsection (12) of Section 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes the commissioner deems appropriate. In making recommendations the council, and in making changes the commissioner, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(3) For each calendar year that the program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each reinsurer shall pay an annual assessment to the program in an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Assessments from insurers shall be paid within thirty (30) days after written notice is mailed or delivered to the assessed insurer.

(2) Assessments from reinsurers shall be paid quarterly according to a procedure established by the commissioner by administrative regulation.

(3) Assessments shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located. In addition to being assessed interest, an insurer that fails to timely pay an assessment shall be in violation of this chapter.

(4) All assessments shall be paid in trust for the exclusive benefit of insurers who participate in the program to a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095. The moneys in the trust shall be held separate and apart from any other funds or moneys of any insurer and of the state and shall be used and administered exclusively for the purposes of the program. Withdrawals from the trust shall be made solely for:

(a) Payments of refunds;

(b) Payments of overpayments made by an insurer;

(c) Payments of administrative costs for the administration of the trust, as specified in the trust agreement, but not to exceed the extent of earnings on the prudent investment of the assets of the trust; and

(d) For other purposes necessary to administer the program as the commissioner may by administrative regulation specify, except that the commissioner may not cause his or her expenses or the expenses of the

department or of any agency of the state to be paid from the trust.

The commissioner, the State Treasurer, the State Auditor, the Attorney General, and any insurer may inspect the records of the trust during the business hours of the depository.

(5) A refund may be only paid by the depository trustee upon receipt of a written instruction to pay a refund signed by the commissioner or the commissioner's designee, and the depository trustee shall promptly pay a refund upon receipt of a proper instruction. The commissioner shall instruct the depository trustee to make a required refund no later than forty-five (45) days after written notice to the insurer of the commissioner's calculation. All refunds shall be paid in lawful money of the United States and shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located.

(6) After collecting all assessments to pay for the program, paying all refunds to participating carriers, and paying other administrative costs for each fiscal year, the commissioner shall calculate whether there remain any excess sums on deposit in the trust. Any excess, less any necessary reserves for the operation of the program as certified by the depository trustee, shall be refunded to all insurers who participated in the program for the entire fiscal year in proportion to their market share at the end of the prior year.

(7) Except for records that individually or in the aggregate would or could likely disclose information about the physical or mental condition of an individual, the records of the trust and its operation shall be considered public records for purposes of the Kentucky Open Records Law, KRS 61.870 to 61.884.

SECTION 23. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Insurer tax" means any tax imposed by KRS 136.330, 136.340, 136.350, 136.370, or 304.3-270.

(b) "Allocated high-cost policy losses" has the same meaning as in Section 14 of this Act.

(2) An insurer who participates in the Kentucky Guaranteed Issue Funding Program shall be entitled to a credit against any insurer tax due and payable in the year in which the insurer tax is due and payable. The amount of the tax credit shall be equal to the amount of the insurer's assessment less the amount of refunds paid to the insurer.

(3) If the amount of the insurer tax for any year is less than the amount of tax credit allowed under subsection (2) of this section, the insurer may apply any unused tax credit against insurer taxes due and payable in any of the next five (5) years."; and

On page 44, line 15, by deleting "28" and inserting "24"; and

On page 45, lines 17 and 18, by deleting "***the board of the Kentucky comprehensive health insurance plan,***"; and

On page 45, line 19, by deleting the comma; and

On page 46, line 6, by deleting all words on the line after "***lapse.***"; and

On page 46, by deleting lines 7 and 8; and

On page 46, lines 10 and 11, by deleting "***the board of the Kentucky Comprehensive Health Insurance Plan,***"; and

On page 46, line 12, by deleting the comma; and

On page 46, line 24, by deleting all words on the line after "***1998.***"; and

On page 46, by deleting lines 25 to 27; and

On page 47, line 3, by deleting "29" and inserting "25" and renumbering all subsequent sections; and

On page 47, line 5, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 52, line 14, by deleting "***30***" and inserting "***26***"; and

On page 62, lines 22 and 24, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 2, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 14, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 66, line 21, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 90, after line 8, by inserting:

"304.17A-130 Risk adjustment process -- Authority for administrative regulations."; and

On page 90, by deleting lines 12 to 22; and renumbering all subsequent sections; and

On page 90, line 23, by deleting "62" and inserting "58".

Floor Amendment No. 62 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 89, Between lines 15 and 16, Insert the following:

"SECTION 63. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet, after consultation with the secretary for the Cabinet for Human Resources, shall on a quarterly basis certify to the Interim Committee on Appropriations and Revenue the general fund savings realized from any managed care program for Medicaid recipients.

(2) The amount certified by the secretary under this section shall be transferred to a trust account to be utilized by the secretary of the Cabinet for Human Resources to improve the health care delivery system by providing health care coverage for additional categories of individuals and families with incomes up to one hundred percent (100%) of the federal poverty guidelines. The commissioner for Medicaid services shall provide within ninety (90) days of the effective date of this Act the estimated cost for the provision of a health benefit plan set forth in this section. The funds in the trust account shall not lapse. The secretary shall give priority in utilizing any appropriated trust account funds to matching available federal funds in the Medicaid program.

(3) The funds shall be utilized to make payment for a basic health benefit plan, which shall be limited to fifteen (15) days of medically necessary acute care hospitalization, in-hospital physician care, and laboratory and x-ray services. Individuals eligible for the basic health benefit plan shall make a twenty dollar ($20) per month contribution to the plan. Families eligible for the basic health benefit plan shall make a thirty-five dollar ($35) per month contribution to the plan. Premium payments may be adjusted in accordance with the income of the individual or family. The health benefit plan shall be available when the savings achieved combined with applicants contributions are equivalent to the Medicaid commissioner's estimated cost for the plan."; and

On page 89, line 16, renumbering "Section 63" as "Section 64" and renumbering all the succeeding sections accordingly.

Floor Amendment No. 63 to the House Committee Substitute to **SB 1**, by Representative Long:

On page 86, line 4, and continuing through page 89, line 3, by deleting Section 60 in its entirety; and

On page 89, line 4, by deleting "61" and inserting in lieu thereof "60"; and

On page 89, line 10, by deleting "62" and inserting in lieu thereof "61"; and

On page 89, line 16, by deleting "63" and inserting in lieu thereof "62"; and

On page 89, line 22, by deleting "64" and inserting in lieu thereof "63"; and

On page 90, line 12, by deleting "65" and inserting in lieu thereof "64"; and

On page 90, line 23, by deleting "66" and inserting in lieu thereof "65", and by deleting "62" and inserting "61" in lieu thereof; and

On page 90, line 26, by deleting "67" and inserting in lieu thereof "66".

Floor Amendment No. 64 to the House Committee Substitute to **SB 1**, by Representative DeWeese:

By deleting everything after the enacting clause and inserting:

"SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle:

(1) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(2) "Department" means the Kentucky Department of Insurance.

(3) "Eligible individual" means an eligible individual as defined in 42 U.S.C. sec. 300gg-41(b).

(4) "Excepted benefits" means excepted benefits as defined in 42 U.S.C. sec. 300gg-91(c).

(5) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. sec. 1001, et seq., as amended.

(6) "Form of coverage" means the manner in which a health insurance issuer agrees to provide, pay for, indemnify, or otherwise furnish health insurance coverage and includes fee for service, health maintenance organizations, point of service, preferred provider organizations, and provider sponsored integrated health delivery networks.

(7) "Group health plan" means a group health plan as defined in 42 U.S.C. sec. 300gg-91(a), including, but not limited to, any Kentucky non-federal governmental plans.

(8) "Health care provider" or "provider" means any facility or service required to be licensed under KRS Chapter 216B, pharmacist as defined in KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the commissioner by administrative regulations promulgated in accordance with KRS Chapter 13A.

(9) "Health insurance contract" means any policy, plan, contract, agreement, or other documents evidencing the terms under which a health insurance issuer will provide health insurance coverage.

(10) "Health insurance coverage" means health insurance coverage as defined in 42 U.S.C. sec. 300gg-91(b)(1) or any other benefits consisting of medical care provided, directly or indirectly, by a health insurance issuer. Except for purposes of Section 11 of this Act, health insurance coverage does not include excepted benefits if such excepted benefits would be excluded from regulation by the provisions of 42 U.S.C. sec. 300gg-21(d).

(11) "Health insurance issuer" means any person who provides health insurance coverage and includes, but is not limited to, any health insurance issuer as defined in 42 U.S.C. sec. 300gg-91(b)(2), any network plan as defined in 42 U.S.C. sec. 300gg-91(d)(10), any self-insurer or multiple employer welfare arrangement to the extent not exempt from state regulation by ERISA, any provider-sponsored integrated health delivery network, or any hospital, medical-surgical, dental, or health service corporation or other person providing health insurance coverage in Kentucky as an insurer.

(12) "Health insurance plan" means a health insurance contract issued to a group health plan.

(13) "Health insurance policy" means a health insurance contract issued in the individual market.

(14) "Health status" means an individual's mental and physical condition, using the following factors: medical condition, claims experience, medical history, and health service utilization.

(15) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable based premium rate and the corresponding highest premium rate.

(16) "Individual health insurance coverage" means health insurance coverage offered in the individual market.

(17) "Individual market" means the individual market as defined in 42 U.S.C. sec. 300gg-91(e)(1).

(18) "Insured" means a person entitled to health insurance coverage under a health insurance contract.

(19) "Kentucky non-federal governmental plan" means a non-federal governmental plan as defined in 42 U.S.C. sec. 300gg(8)(C) established or maintained by the Commonwealth or political subdivision thereof, or by any agency or instrumentality or any of the foregoing.

(20) "Managed care" means systems or techniques generally used by third-party payors or their agents to coordinate health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with participating health care providers; and

(c) Coordination of services by a case manager.

(21) "Medical care" means medical care as defined in 42 U.S.C. sec. 300gg-91(a)(2).

(22) "Pre-existing condition exclusion" means pre-existing condition exclusion as defined in 42 U.S.C. sec. 300gg-(b)(1).

(23) "Program" means the Kentucky Guarantee Issue Funding Program.

(24) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310.

(25) "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(26) "Purchasing cooperative" means any voluntary collection of one hundred (100) or more individuals or organizations who band together for the purposes of purchasing health insurance coverage, who have registered the purchasing cooperative with the commissioner at least sixty (60) days prior to purchasing any health insurance coverage, and who have satisfied other requirements as the commissioner may prescribe by administrative regulation. "Purchasing cooperative" does not mean either:

(a) Any multiemployer plan, any multiple employer welfare arrangement, or any trust or other arrangement by which health insurance plans are issued to a group health plan; or

(b) Any collection of individuals or organizations organized or established by a health insurance issuer.

(27) "Small group" means an employer with two (2) to fifty (50) employees, except that it specifically excludes employer organized associations or bona fide associations as defined in 42 U.S.C. sec. 300gg-91(d)(3).

(28) "Standard health benefit plan" means health insurance coverage providing benefits in the individual and small group markets as established under Section 4 of this Act.

(29) "Utilization management" means, except in Sections 31 to 44 of this Act, programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

The definitions contained in this section apply to Sections 2, 3, 4, 5, 6, 16 to 25, and 28 of this Act beginning on the effective date of this Act and to the remainder of this subtitle beginning January 1, 1998.

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All health insurance coverage issued or renewed on or after January 1, 1998, shall comply with the following provisions:

(1) A health insurance issuer shall be required to offer health insurance coverage on a guaranteed issue basis as follows:

(a) With respect to individual health insurance coverage, the health insurance issuer must issue coverage, at the applicant's election, under either the standard health benefit plan or the health insurance policy (other than the standard health benefit plan) sold by it in the individual market with the largest annual premium volume if the applicant:

1. Is an eligible individual; or

2. Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy, and has not had his or her most recent health insurance coverage terminated based upon fraud, misrepresentation, or intentional and abusive noncompliance with the provisions of the health insurance contract.

During the period January 1, 1998, to December 31, 1998, a health insurance issuer may elect, in lieu of the option under subparagraph 2. of this paragraph, to provide all persons who are not eligible individuals with a choice of the standard health benefit plan and any one (1) other health insurance policy (other than the standard health benefit plan) made generally available to, and actively marketed in, the individual market;

(b) With respect to a group health plan, only to the extent required by 42 U.S.C. sec. 300gg-11. In applying the requirements of 42 U.S.C. sec. 300gg-11, a health insurance issuer may establish employer contribution rules or group participation rules as permitted by 42 U.S.C. sec. 300gg-11(e); and

(c) With respect to members of a purchasing cooperative, the purchasing cooperative may elect to have the requirements of either paragraph (a) or (b) of this subsection apply to it.

(2) (a) Except as provided in subsection (3) of this section, all health insurance coverage shall be renewable:

1. With respect to individual health insurance coverage, only to the extent required by 42 U.S.C. sec. 300gg-42;

2. With respect to a group health plan, only to the extent required by the provisions of 29 U.S.C. sec. 1183 and 42 U.S.C. sec. 300gg-12 as applicable; and

3. With respect to a purchasing cooperative:

a. A purchasing cooperative that has elected the requirements of paragraph (a) of subsection (1) of this section shall be governed by the requirements of paragraph (a)1. of this subsection; and

b. A purchasing cooperative that has elected the requirements of paragraph (b) of subsection (1) of this section shall be governed by the requirements of paragraph (a)2. of this subsection.

(b) The provisions of this subsection do not apply to an individual qualified to participate in the Kentucky guarantee issue funding program.

(3) Health insurance coverage shall not be required to be issued or renewed if the commissioner finds:

(a) That the issuance or continuation of the coverage would not be in the best interests of the policyholders or certificate holders or would impair the ability of the health insurance issuer who provides the health insurance coverage to meet its contractual obligations. In that instance, the commissioner shall assist affected individuals in finding comparable coverage; or

(b) That the health insurance coverage not being renewed is obsolete and is being replaced with comparable health insurance coverage.

To the extent permitted by federal law, the exceptions from required issuance or renewal established by this subsection shall be in addition to the exceptions provided for in 42 U.S.C. secs. 300gg-11(c) to (f) and 42 U.S.C. secs.

300gg-42(b) to (e).

(4) As to pre-existing condition exclusion provisions:

(a) With respect to an eligible individual, the health insurance policy may not impose any pre-existing condition exclusion; and

(b) With respect to any person who is not an eligible individual, the health insurance policy or health insurance plan may only impose a pre-existing condition exclusion that is permitted to a group health insurance policy under 42 U.S.C. sec. 300gg.

1. In applying the pre-existing condition exclusions, a pre-existing condition exclusion relating to pregnancy may be imposed against an individual who is not an eligible individual.

2. Prior to January 1, 1998, the commissioner shall promulgate administrative regulations, relating to the methods of crediting coverage for persons purchasing coverage in the individual market who are not eligible individuals, that are designed to discourage individuals from switching to policies that provide more generous coverage because the individuals know or reasonably suspect that they have contracted or are suffering from a condition for which more generous coverage is provided.

(5) A health insurance issuer shall not discriminate against any provider who is located within the geographic coverage area of the health insurance coverage and is willing to meet the terms and conditions for participation established by the health insurance issuer.

(6) A Kentucky non-federal governmental plan may make an election under 42 U.S.C. sec. 300gg-21(b)(2)(A).

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurance issuer is not required to offer both health insurance plans and health insurance policies and may elect to offer either health insurance plans or health insurance policies, or both.

(2) A health insurance issuer may select its form or forms of coverage notwithstanding any other provision of this subtitle. A health insurance issuer shall still comply with the provisions of this subtitle and the other applicable provisions of this chapter as they apply with respect to the form or forms of coverage selected.

(3) A health insurance issuer that voluntarily ceased to do business in Kentucky during the period between July 15, 1994, and the effective date of this Act and that properly complied with any notice and cancellation provisions of KRS 304.17A-110(1)(d) applicable at the time the health insurance issuer ceased doing business in Kentucky shall be permitted to reenter Kentucky until the date nine (9) months after the effective date of this Act and offer health insurance policies, health insurance plans, or both. For good cause shown and upon such terms and conditions as the commissioner may reasonably impose for the purpose of encouraging future compliance with the provisions of this chapter and of promoting increased availability of health insurance coverage to Kentucky residents, the commissioner may permit reentry notwithstanding the failure of the health insurance issuer to comply with any notice and cancellation provisions of KRS 304.17A-110(1)(d) applicable at the time the health insurance issuer ceased doing business in Kentucky.

(4) All health insurance plans and policies delivered, issued, or renewed on or after the effective date of this Act shall include coverage for hospice care at least equal to the Medicare benefits.

(5) Health insurance plans and policies delivered, issued, or renewed under the provisions of this subtitle shall be subject to the mandatory benefits and coverages provided in Subtitles 17, 18, 32, and 38 of this chapter.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, by administrative regulations, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after December 31, 1997. The health insurance issuer must issue coverage under the standard health benefit plan and the health insurance policy sold by it with the largest annual premium volume in the individual and small group markets. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially the standard health benefit plan shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars ($1,000,000) per covered individual. The maximum lifetime limit under this subsection shall not be altered by the commissioner, and no actuarial equivalent benefit shall be submitted by the commissioner.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point of service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of Section 19 of this Act for inclusion in calculating assessments and refunds under the Kentucky Guaranteed Issue Funding Program.

(4) Any health insurance issuer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health insurance policies in this state after December 31, 1997, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage which the health insurance issuer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurance issuer to offer a standard health benefit plan in a form of coverage that the health insurance issuer has not selected;

(b) To prohibit a health insurance issuer from offering other health insurance coverage in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurance issuer would be required to provide under Section 2 of this Act.

(6) If a standard health benefit plan or any other health insurance coverage issued by a health insurance issuer covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212 in medically underserved areas designated by the Cabinet for Human Resources, that health insurance issuer shall pay the plan's established rate for those services to the health department.

(7) Insurance agents licensed under this chapter who present for sale any health insurance coverage in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same health insurance issuer.

(8) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health insurance policy being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health insurance policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health insurance coverage, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurance issuer for one (1) year, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (7) of this section, the term "prospective applicant" refers to a natural person who is a resident of the Commonwealth who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or to the person's children or an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(9) All health insurance contracts shall coordinate benefits with other health insurance contracts in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurance issuer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers a health insurance contract in this state that directs or gives any incentives to insureds to obtain health care services

from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the health insurance issuer or an agreement by the provider to abide by the terms for participation established by the health insurance issuer. This requirement to have written contracts shall apply whenever a health insurance issuer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the health insurance issuer's insured. The obligation set forth in this section for a health insurance issuer to have written contracts with providers selected for use by the health insurance issuer shall not apply to emergency or out-of-area services.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No health insurance issuer shall deliver or issue for delivery in this state after December 31, 1997, any health insurance contract, or any endorsement, rider, or application that becomes a part thereof, until the form has been filed with and approved by the commissioner under this section.

(2) Each health insurance issuer issuing or renewing health insurance contracts in this state, before use thereof and as frequently as the issuer deems appropriate, shall file with the commissioner and the Attorney General its proposed premium rates and classification rates. The health insurance issuer shall demonstrate that all rates are within the restrictions required by this subtitle.

(3) Premiums for each health insurance plan or health insurance policy may be determined on the basis of any factor deemed necessary by the health insurance issuer, including age, gender, occupation or industry, geography, family composition, insurance policy design, health status, and cost containment provisions.

(4) The proposed rates shall not be approved by the commissioner unless the commissioner has determined that the proposed rates are reasonable. In determining reasonableness, the commissioner shall consider, among other factors:

(a) Whether the proposed rate is based upon actuarially valid changes in risk associated with the enrolled population;

(b) Whether the proposed rate is based upon actuarially valid changes that result from a change in state law, if any;

(c) Whether the proposed rate is excessive;

(d) Whether the proposed rate is unfairly discriminatory;

(e) Whether the benefits provided are reasonable in relation to the premiums charged; and

(f) Previous premium rates for the contracts to which the filing applies.

(5) No filing under subsection (1) of this section shall become effective until the commissioner has approved the filing. Should forty-five (45) days expire after the commissioner receives a form filing before approval or disapproval of the filing, the form shall be deemed approved.

(6) (a) A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing must be approved by the commissioner within forty-five (45) days after the date of filing. Should forty-five (45) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within forty-five (45) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (4) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurance issuer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (4) of this section the commissioner determines the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect. Any premium refund shall be limited to the excess premium charged during a four (4) month retroactive period ending on the date of the commissioner's

final order reducing rates.

(7) The health insurance issuer shall adhere to its rates and classifications as approved by the commissioner.

(8) For each health insurance contract sold, the rate to the specific purchaser shall be guaranteed for the longer of twelve (12) months or the actual contract length.

Section 5. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health ***insurance coverage***[~~benefit plans~~] in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health ***insurance policies***[~~benefit plans~~].

(3) At least quarterly,[~~ but not more often than six (6) times per year,~~] the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

(a) The design of the standard health benefit plans[~~ pursuant to KRS 304.17A-160~~];

(b) The rate-filing process for all health ***insurance contracts***[~~benefit plans~~];

(c) [~~The definition of high-risk conditions;~~

~~(d)~~]The administrative regulations concerning this subtitle to be promulgated by the department;[~~ and~~]

(d)[~~(e)~~]Other issues at the request of the commissioner***; and***

(e) The health care Safety Net portion of the Kentucky Guaranteed Issue Funding Program provided in Section 20 of this Act, including the establishment and annual update of provider reimbursement rates reflective of and commensurate with health insurance provided to a representative number of large employers in each rating region.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

[~~(5) The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner.~~]

Section 6. KRS 304.17A-135 is amended to read as follows:

(1) Health ***insurance contracts***[~~benefit plans~~] which provide benefits for treatment of breast cancer by chemotherapy shall also provide coverage for treatment of breast cancer by high-dose chemotherapy with autologous bone marrow transplantation or stem cell transplantation.

(2) The administration of high-dose chemotherapy with autologous bone marrow transplantation or stem cell transplantation shall only be covered when performed in institutions that comply with the guidelines of the American Society for Blood and Marrow Transplantation or the International Society of Hematotherapy and Graft Engineering, whichever has the higher standard.

(3) Treatment of breast cancer by high-dose chemotherapy with autologous bone marrow transplantation or stem cell transplantation shall not be considered experimental or investigational. Coverage for transplantation under this section shall not be subject to any greater coinsurance or copayment than that applicable to any other coverage provided by the health ***insurance contract***[~~plan~~].

Section 7. KRS 304.17A-140 is amended to read as follows:

All health ***insurance coverage***[~~benefit plans~~] issued or renewed on or after July 15, 1995, which provide coverage for a family member of the insured shall provide that the health ***insurance coverage***[~~plan~~] benefits applicable for children shall be payable with respect to legally-adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

Section 8. KRS 304.17A-145 is amended to read as follows:

(1) A health ***insurance contract***[~~benefit plan, as defined in KRS 304.17A-100~~], issued or renewed on or after July 15, 1996, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a

minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a health ***insurance contract if the health insurance contract***[~~benefit plan if the health benefit plan~~] authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of health ***insurance contracts***[~~benefit plans~~] in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Section 9. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) (a) "Health benefit plan" means any ***health insurance contract as defined in Section 1 of this Act***[~~hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard and supplemental health benefit plan as established in KRS 304.17A-160, which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky~~].

(b) "Health benefit plan" does not include policies ***or plans*** covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, ***Medicare risk or replacement, any contract providing only excepted benefits,*** specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, or conversion policies for group health policies existing on January 1, 1994[~~, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160~~].

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" ***or "insurer"*** means any ***health insurance issuer as defined in Section 1 of this Act***[~~entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services~~].

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

SECTION 10. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health insurance coverage or health insurance contract provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical care, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this section, in the General Assembly, a sponsor of a bill and any member

proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates prior to final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee.

Section 11. KRS 304.18-050 is amended to read as follows:

[~~(1) Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.~~

~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

- ~~(a) Was in existence on January 30, 1996;~~
- ~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~
- ~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~
- ~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~
- ~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~]If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Premium rates for a health insurance contracts issued or renewed to an individual, a small group, an association, or an alliance on or after the effective date of this Act shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

- *(a) The percentage change in the base premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health insurance policy into which the insurer is no longer enrolling new individuals, the insurer shall use the percentage change in the base premium rate, if the change does not exceed, on a percentage basis, the change in the base premium rate for the most similar health insurance policy into which the insurer is actively enrolling new individuals;*

(b) Any adjustment, not to exceed five percent (5%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status, or duration of coverage of the individual and dependents as determined from the insurer's rate manual; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual.

(3) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(4) The premium rates charged during a rating period to a small group with similar case characteristics for the same coverage, or the rates that could be charged to that small group under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the base premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health insurance plan into which the insurer is no longer enrolling new small groups, the insurer shall use the percentage change in the base premium rate, if the change does not exceed, on a percentage basis, the change in the base premium rate for the most similar health benefit plan into which the insurer is actively enrolling new small groups;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, health status, or duration of coverage of the employee or dependents as determined from the insurer's rate manual; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group as determined from the insurer's rate manual.

(6) An insurer shall not use case characteristics, other than age, gender, occupation or industry, geographic area, family composition, and group size, without prior approval of the commissioner.

(7) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(9) Adjustments in rates for claims experience, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(10) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network, if utilization of the restricted provider network results in substantial differences in claims costs.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health insurance contract offered in the group market segment on or after the effective date of this Act shall be offered on a guaranteed issue basis to any group applicant that meets the insurer's participation requirements, if any.

(2) No insurer shall exclude any eligible person or dependent, who would otherwise be covered under the group health insurance contract, on the basis of an actual or expected health condition.

(3) With approval of the commissioner and after a hearing, an insurer may refuse to issue group coverage to any applicant if the network plan does not have capacity in accordance with the standards developed by the commissioner, but:

(a) The refusal shall be applied uniformly;

(b) The insurer shall not accept other groups for six (6) months; and

(c) The prior approval of the commissioner shall be required to accept other groups.

(4) With approval of the commissioner and after a hearing, an insurer may refuse to issue group coverage to any applicant if the plan does not have the necessary financial reserves necessary to underwrite additional coverage, but:

(a) The refusal shall be applied uniformly;

(b) The insurer shall not accept other groups until the later of:

1. Six (6) months have lapsed; or

2. The commissioner is satisfied that there are sufficient financial reserves; and

(c) The prior approval of the commissioner shall be required to accept other groups.

(5) A group health plan shall permit an individual or individual's dependents who are eligible, but not enrolled for coverage under the terms of the plan, to enroll for coverage under the terms of the plan in accordance with the conditions and requirements of administrative regulations promulgated by the commissioner.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to employers with similar case characteristics for health insurance coverage with the same or similar coverage.

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year.

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled; or

2. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

(d) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the employer members of one (1) or more employer-organized associations.

(e) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(f) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums.

(g) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period may not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, health status, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 16 to 25 of this Act may be referred to as the Kentucky Guaranteed Issue Funding Program.

(2) There is hereby created the Kentucky Guaranteed Issue Funding Program, which shall be operational on or before January 1, 1998. For purposes of Sections 16 to 25 of this Act, "program" means the Kentucky Guaranteed Issue Funding Program.

(3) The General Assembly finds that the guaranteed issue provisions created by this subtitle will provide access to health insurance to residents of Kentucky at costs that, in particular cases, will be substantially above the premiums that individuals will pay for coverage. The Kentucky Guaranteed Issue Funding Program is created to:

(a) Encourage private insurers to participate in the individual market by establishing a means to allocate the losses that insurers issuing coverage in the individual market incur with respect to policies defined as high-cost policies in Section 17 of this Act;

(b) Provide a mechanism for persons with a high-cost condition to maintain access to coverage in the private insurance market by means of the allocation process in paragraph (a) of this subsection; and

(c) Provide a safety net of insurance coverage to persons with a high-cost condition in areas of Kentucky where alternatives for individual coverage are restricted or unavailable as defined in Section 20 of this Act.

(4) The Kentucky Guaranteed Issue Funding Program is also designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(5) All insurers, reinsurers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Issue Funding Program and be subject to an assessment.

(6) As a condition of doing business in the Commonwealth of Kentucky, all insurers writing health insurance policies and plans in this state shall:

(a) 1. Support the program by paying an assessment as defined in Section 17 of this Act; or

2. Participate in the program by insuring individuals with high-cost conditions; and

(b) Pay their proportionate share of the cost of the program based on their market share, as set forth in Section 17 of this Act.

(7) During the transition from the effective date of this Act until the date the program begins issuing coverage, the commissioner shall act on behalf of the program.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 16 to 25 of this Act, unless the context requires otherwise:

(1) "Actual high-cost policy losses" means a dollar amount calculated by subtracting an insurer's high-cost policy claims from that insurer's high-cost policy premiums.

(2) "Adjusted total high-cost policy losses" means an amount calculated by subtracting all reinsurer assessments under Section 24 of this Act from the total actual high-cost policy losses.

(3) "Allocated high-cost policy losses" means the amount obtained by multiplying the insurer's market share by the amount of the adjusted total high-cost policy losses.

(4) "Assessment" means the following:

(a) With respect to an insurer, an amount calculated by subtracting an insurer's allocated high-cost policy losses from the insurer's actual high-cost policy losses. If the amount calculated is greater than zero, it shall be treated as a refund; and

(b) With respect to a reinsurer, the amount assessed under Section 24 of this Act.

(5) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(6) "Covered life" means a person who has health insurance coverage.

(7) "Creditable coverage" means coverage under any of the following:

- *(a) A group health plan;*
- *(b) Health insurance coverage;*
- *(c) Part A or Part B of Title XVIII of the Social Security Act;*
- *(d) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under sec. 1928;*
- *(e) Coverage provided to members of the United States military and dependents under Chapter 55 of U.S.C. Title 10;*
- *(f) A medical care program of the Indian Health Service or of a tribal organization;*
- *(g) A state health benefits risk pool;*
- *(h) A health plan offered under Chapter 89 of U.S.C. Title 5;*
- *(i) A health benefit plan under section 5(e) of the Peace Corps Act, 22 U.S.C. sec. 2504 (e);*
- *(j) A public health plan as defined in federal regulations promulgated under the Health Insurance Portability and Accountability Act;*
- *(k) Medicaid; or*
- *(l) Medicare.*

Creditable coverage does not include specific disease only, accident only, workers' compensation, or motor vehicle coverages.

(8) "Diagnosed" means any of the following:

- *(a) A physician, or other qualified health care practitioner as may be defined by the commissioner by administrative regulation, has reached, consistent with ordinary care in that person's profession, the conclusion that a person has contracted or is suffering from a medical condition;*
- *(b) A person who has stated in any application for a health care policy that the person or any person entitled to benefits under the health care policy has contracted or is suffering from any human ailment, deficiency, deformity, disease, injury, pain, or physical condition; or*
- *(c) Such other definition as the commissioner may by administrative regulation reasonably establish.*

(9) "First issuance" means the date a person first became eligible for benefits under a health insurance policy.

(10) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market.

(11) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount.

(12) "High-cost condition" means a condition covered by a health insurance policy that has been determined by the commissioner to constitute a high-cost condition.

(13) "High-cost policy" means a health insurance policy that is eligible for inclusion in calculating assessments and refunds under the program.

(14) "High-cost policy claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to high-cost policies or such other claim measurement formula as the commissioner may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead cost, with respect to a high-cost policy.

(15) "High-cost policy premiums" means the dollar amount of premiums received by an insurer with respect to high-cost policies.

(16) "Insurer" means any health insurance issuer, other than a reinsurer, and includes any self-insurance group operating as authorized by subsection (1)(b) of Section 29 of this Act.

(17) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers.

(18) "Other coverage" means coverage under any of the following:

- *(a) A group health plan;*
- *(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c, et seq.;*
- *(c) A state plan under Title XIX of the Social Security Act, or any successor program;*
- *(d) Continuation coverage under any COBRA continuation provision as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or*
- *(e) Any other health insurance coverage that is not individual health insurance coverage.*

(19) "Participating carrier" means a carrier that actively offers high-cost policies in the individual health insurance market through the program and accepts all applicants that apply within the carrier's proportionate share.

(20) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(21) "Program" means the Kentucky Guaranteed Issue Funding Program.

(22) "Refund" means an amount to be paid to an insurer by the program.

(23) "Reinsurer" means any person providing health insurance stop-loss coverage.

(24) "Reinsurance premiums" means amounts paid to reinsurers to purchase health insurance stop-loss coverage.

(25) "Supporting carrier" means a carrier not offering high-cost policies in the individual health insurance market through the program; the carrier shall not pay an assessment as defined in this section to assist in subsidizing the costs incurred by the program and any participating carriers.

(26) "Total actual high-cost policy losses" means a dollar amount equal to the sum of the actual high-cost policy losses of the program.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall administer the provisions of Sections 16 to 25 of this Act, and the commissioner's duties and responsibilities to the program include:

- *(a) Appoint an administrator and hire any additional staff required to accomplish the requirements of Sections 16 to 25 of this Act;*
- *(b) Take any legal actions necessary, including action to recover or collect assessments due the program;*
- *(c) Establish administrative and accounting procedures for the operation of the program;*
- *(d) Establish procedures under which applicants and participants in the program may have grievances reviewed by an impartial body and reported to the commissioner;*
- *(e) Collect the fees and any assessments in accordance with Sections 16 to 25 of this Act; and*
- *(f) Provide written reports to the Governor and the Legislative Research Commission annually of all activities of the program. The commissioner shall by administrative regulation determine what reports and data need to be reported.*

(2) The commissioner shall, by administrative regulation, establish a list of high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health insurers may elect to participate in providing health insurance coverage to individuals with a high-cost condition under the Kentucky Guaranteed Issue Funding Program under the following conditions:

- *(a) Network-based insurers may limit coverage to those benefit plans offered to persons residing in the geographic area covered by the providers network;*
- *(b) A group carrier may elect to offer coverage to persons with a high-cost condition without otherwise operating in the individual market; and*
- *(c) Any participating carrier may limit the number of persons enrolled with a high-cost condition to the proportion of the insurer's market share. A carrier that reaches its enrollment limit during a given month shall immediately notify the commissioner and shall continue issuing coverage throughout the end of that month. High-cost policies that are enrolled with a carrier on the effective date of this Act and health insurance policies that were not high cost at the time of first issuance, but that become high-risk policies, may be counted toward the enrollment cap of a participating carrier.*

(2) The commissioner shall publicize a monthly list of participating carriers that offer coverage to individuals with a high-cost condition.

(3) A health insurance policy shall be considered a high-cost policy and is eligible for inclusion in calculating assessments and refunds under the program if it meets all of the following criteria:

- *(a) The health insurance policy is purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children;*
- *(b) Under the program, an individual entitled to benefits has a defined high-cost condition;*
- *(c) The lifetime claims that have been paid under the health insurance policy have not exceeded one million dollars ($1,000,000). The lifetime claims limit shall not apply if the policy was issued before the effective date of this section, or is a renewal of a policy that was issued before the effective date of this Act;*
- *(d) The health insurance policy imposes the maximum pre-existing condition exclusion permitted under Section 2 of this Act;*
- *(e) The individual purchasing the health insurance policy is not eligible for or covered by other coverage;*
- *(f) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A; and*
- *(g) Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this subsection even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year.*

(4) Notwithstanding any other provision of this section, a health insurance issuer shall not be required to utilize the experience of high cost policies under the program to develop index rates for its individual policies under Section 13 of this Act.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The program shall create the Kentucky Safety Net plan as an alternative coverage limited to those circumstances listed in subsection (3) of this section.

(2) The Kentucky Safety Net portion of the program shall be operational from the date the program becomes operational to April 14, 2000.

(3) The Kentucky Safety Net portion of the program shall be made available on a guaranteed issue basis only to persons with a high-cost condition who are not eligible for coverage through an employer or any governmental program, and only under the following circumstances:

- *(a) There is no health insurance coverage available from a private participating carrier in the geographic area of the individual; or*
- *(b) There is only one (1) participating carrier offering coverage in the geographic area of the individual.*

(4) The Kentucky Safety Net portion of the program shall offer three (3) health benefit plans to participants, one (1) of which shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars ($1,000,000) per covered individual. Health benefit plans shall be offered with high and low cost-sharing options. Both plans shall include utilization review and case management.

- *(a) No pre-existing condition exclusion under the Kentucky Safety Net portion of the program shall be applied to individuals who have eighteen (18) months of creditable coverage with no more than sixty-three (63) days' lapse in coverage prior to application in the program.*
- *(b) A twelve (12) month pre-existing condition exclusion shall be imposed with a credit for prior coverage on individuals who do not meet the requirements of paragraph (a) of this subsection.*

(5) Rates for health insurance coverage issued under the Kentucky Safety Net portion of the program shall initially not exceed one hundred fifty percent (150%) of the average statewide rate in the commercial individual market for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(6) Net losses of the Safety Net portion of the program shall be included in the total losses of the program and shall be reimbursed from assessments.

(7) An individual covered by a health benefit plan offered by the program who has a high-cost condition as defined in Section 17 of this Act and whose claims for the high-cost condition have not exceeded premiums paid for three (3) years shall be notified by the plan in the last six (6) months of the third year of plan participation that the individual

may be able to purchase health insurance outside the plan. The notice shall state that neither the notice nor the individual's actions to purchase health insurance outside the plan shall affect the individual's eligibility for plan coverage.

(8) The commissioner shall have the following powers and duties on behalf of the Safety Net portion of the program:

(a) Enter into any contracts as are necessary or proper to carry out the provisions of Sections 16 to 25 of this Act;

(b) Design and offer health insurance policies that are to be available three hundred sixty-five (365) days per year on a guaranteed issue basis to eligible individuals;

(c) Develop a program to publicize the existence of the Safety Net portion of the program, the eligibility requirements for the Safety Net portion of the program, and the procedures for enrollment in the Safety Net portion of the program, and to maintain public awareness of the Safety Net portion of the program;

(d) Determine a fee for licensed insurance agents that place business through, or refer business to, the Safety Net portion of the program;

(e) Provide for reinsurance of risks incurred by the Safety Net portion of the program;

(f) Issue policies of insurance in accordance with the requirements of Sections 16 to 25 of this Act;

(g) Establish and modify from time to time, as appropriate, rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other function appropriate to the operation of the Safety Net portion of the program;

(h) Prepare and distribute application forms and enrollment instruction forms to insurance producers and to the general public;

(i) Appoint or hire appropriate legal, actuarial, and other professionals as necessary to provide technical assistance in the operation of the Safety Net portion of the program;

(j) Provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plans more cost-effective;

(k) Design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services; and

(l) Establish and update annually provider reimbursement rates that assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population.

(9) After April 14, 2000, this section shall become null and void.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For a health insurance policy that is a high-cost policy at the time of first issuance, an insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the maximum annual premium that the insurer could charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(2) (a) If a health insurance policy that was not a high-cost policy at the time of first issuance thereafter becomes a high-cost policy, the insurer may not increase the premium on account of the health insurance policy becoming a high-cost policy until the date of first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition. Nothing in this subsection shall prohibit an increase in premiums that could be imposed on an equivalent health insurance policy that was not a high-cost policy. At the time of the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) At the time of each subsequent renewal after the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been

diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(3) If an individual was not without health insurance coverage for more than sixty-three (63) days immediately preceding the purchase of a high-cost health insurance policy that is eligible under the program, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy. At the time of each subsequent renewal of the high-cost health insurance policy, the insurer may charge an annual premium as allowed under subsection (1) of this section.

(4) (a) Notwithstanding the provisions of subsections (1, (2), and (3) of this section, the commissioner may, for good cause shown, authorize increasing the annual premium on a high-cost policy up to two hundred percent (200%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) Rates for health benefit plans issued by the program shall not exceed two hundred percent (200%) of the average standard rate for similar coverage.

(c) All rates for health benefit plans issued by the program shall be filed with and approved by the commissioner.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each calendar year that the program is operating, every insurer shall report to the commissioner and the program, in the form and at the time as the commissioner by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of high-cost policies in force as of December 31;

(c) The amount of the insurer's high-cost policy premiums received during the calendar year covered by the report;

(d) The amount of the insurer's high-cost policy claims paid during the calendar year covered by the report; and

(e) Such other information as the commissioner may, by administrative regulation, require be reported to operate the program.

Nothing contained in this subsection shall prohibit the commissioner from conducting examinations of insurers participating in the plan as is permitted by KRS 304.2-100 or from exercising other powers as are conferred upon the commissioner or the department by this chapter.

(2) At the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the commissioner shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of high-cost policy premiums for all reporting insurers;

(c) The total amount of high-cost policy claims paid by all reporting insurers;

(d) The total amount of total actual high-cost policy losses;

(e) The amount of the adjusted total actual high-cost policy losses;

(f) The amount of each insurer's allocated high-cost policy losses;

(g) The amount of the insurer's assessment or refund; and

(h) Such other information as the commissioner may elect to calculate and report.

The commissioner shall complete the calculation and provide each insurer the results of the calculation within forty-five (45) days after the reporting deadline.

(3) The commissioner shall prepare quarterly estimated calculations for the purposes of allowing all insurers to budget for their annual assessments and refunds.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, the commissioner shall, by administrative regulation promulgated within ninety (90) days of the effective date of this Act, require that high-cost policies contain cost

containment features, including managed care and utilization management, to control the amount of high-cost policy losses without creating adverse health care outcomes. If the commissioner fails to timely promulgate administrative regulations, health insurance issuers shall impose cost containment features.

(2) The Health Insurance Advisory Council shall no less than annually review the list of high-cost conditions established by the commissioner under subsection (12) of Section 17 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes the commissioner deems appropriate. In making recommendations the council, and in making changes the commissioner, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(3) For each calendar year that the program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each reinsurer shall pay an annual assessment to the program in an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Assessments from insurers shall be paid within thirty (30) days after written notice to the assessed insurer.

(2) Assessments from reinsurers shall be paid quarterly according to a procedure established by the commissioner by administrative regulation.

(3) Assessments shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located. In addition to being assessed interest, an insurer that fails to timely pay an assessment shall be in violation of this chapter.

(4) All assessments shall be paid in trust for the exclusive benefit of insurers who participate in the program to a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095. The moneys in the trust shall be held separate and apart from any other funds or moneys of any insurer and of the state and shall be used and administered exclusively for the purposes of the program. Withdrawals from the trust shall be made solely for:

(a) Payments of refunds;

(b) Payments of overpayments made by an insurer;

(c) Payments of administrative costs for the administration of the trust, as specified in the trust agreement, but not to exceed the extent of earnings on the prudent investment of the assets of the trust; and

(d) For other purposes necessary to administer the program as the commissioner may by administrative regulation specify, except that the commissioner may not cause his or her expenses or the expenses of the department or of any agency of the state to be paid from the trust.

The commissioner, the State Treasurer, the State Auditor, the Attorney General, and any insurer may inspect the records of the trust during the business hours of the depository.

(5) A refund may be only paid by the depository trustee upon receipt of a written instruction to pay a refund signed by the commissioner or the commissioner's designee, and the depository trustee shall promptly pay a refund upon receipt of a proper instruction. The commissioner shall instruct the depository trustee to make a required refund no later than forty-five (45) days after written notice to the insurer of the commissioner's calculation. All refunds shall be paid in lawful money of the United States and shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located.

(6) After collecting all assessments to pay for the program, paying all refunds to participating carriers, and paying other administrative costs for each fiscal year, the commissioner shall calculate whether there remain any excess sums on deposit in the trust. Any excess, less any necessary reserves for the operation of the program as certified by the depository trustee, shall be refunded to all insurers who participated in the program for the entire fiscal year in proportion to their market share at the end of the prior year.

(7) Except for records that individually or in the aggregate would or could likely disclose information about the physical or mental condition of an individual, the records of the trust and its operation shall be considered public records for purposes of the Kentucky Open Records Law, KRS 61.870 to 61.884.

SECTION 25. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Insurer tax" means any tax imposed by KRS 136.330, 136.340, 136.350, 136.370, or 304.3-270.

(b) "Allocated high-cost policy losses" has the same meaning as in Section 17 of this Act.

(2) An insurer who participates in the Kentucky Guaranteed Issue Funding Program shall be entitled to a credit against any insurer tax due and payable in the year in which the insurer tax is due and payable. The amount of the tax credit shall be equal to the amount of the insurer's assessment less the amount of refunds paid to the insurer.

(3) If the amount of the insurer tax for any year is less than the amount of tax credit allowed under subsection (2) of this section, the insurer may apply any unused tax credit against insurer taxes due and payable in any of the next five (5) years.

Section 26. KRS 304.2-310 is amended to read as follows:

(1) The commissioner may hold a hearing, without request by others, for any purpose within the scope of this code.

(2) The commissioner shall hold a hearing:

(a) If required by any other provision of this code; or

(b) Upon written application for a hearing by a person aggrieved by any act, threatened act, or failure of the commissioner to act, or by any report, administrative regulation, or order of the commissioner (other than an order for the holding of a hearing, or a final order entered after a hearing, of which hearing the person had notice). Any application for a hearing shall be filed in the department within sixty (60) days after the person knew or reasonably should have known, of the act, threatened act, failure, report, administrative regulation, or order, unless a different period is provided for by other laws applicable to the particular matter, in which case the other law shall govern.

(3) Any application for a hearing shall briefly state the respects in which the applicant is so aggrieved, together with the grounds to be relied upon as a basis for the relief to be sought at the hearing.

(4) ***(a)*** If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, he shall hold the hearing in accordance with KRS Chapter 13B.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the commissioner shall hold a hearing in accordance with KRS Chapter 13B upon timely written application by an insurer aggrieved by the commissioner's conduct in administering the Kentucky Guaranteed Issue Funding Program. After completion of the hearing, the commissioner may assess the insurer who requested the hearing for the costs of the hearing if the commissioner finds that the application was not made in good faith.

(5) ***(a)*** Pending the hearing and the issuance of the final order resulting from the hearing, the commissioner shall suspend or postpone the effective date of his previous action.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the commissioner shall not suspend or postpone the effective date of any order requiring an insurer to pay an assessment to the Kentucky Guaranteed Issue Funding Program.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning January 1, 1998, a person who is not a state employee or a dependent of a state employee shall not be permitted to purchase or renew health insurance coverage available to state employees under KRS 18A.225 or 18A.2281. A person who is not a state employee but who purchased health insurance coverage available to state employees prior to January 1, 1998, shall be permitted to continue that health insurance coverage for the remainder of the current policy period unless the policy is lawfully terminated prior to that time.

(2) Health insurance policies issued under KRS 18A.225 or 18A.2281 to persons who are not state employees shall not be eligible for inclusion in the Kentucky Guaranteed Issue Funding Program.

(3) For purposes of determining if a person is an "eligible individual" within the meaning of Section 1 of this Act, when a policy of health insurance coverage is not permitted to be renewed because of subsection (1) of this section, a person's coverage under that policy shall automatically be deemed to have been for the period of eighteen (18) months.

Section 28. KRS 304.48-030 is amended to read as follows:

(1) This subtitle applies to a group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B or a group of Kentucky for profit corporations (as defined in KRS Chapter 271B), or the members of a bona fide association, including liability self-insurance groups composed of any number of members, who join together to self-insure against ***the following:***

(a) Professional liability or public liability risks for bodily injury or property damage, to anyone except employees for claims arising out of their employment of the members of such group, which arises out of the operation of institutions or other legal entities by members of the group*; or*

(b) The costs of designated medical care for officers, directors, members, employees, or their spouses and dependents, of those persons who join together to self-insure.

(2) Any self-insurance group operating under a certificate of filing as of July 15, 1994, shall have one (1) year from July 15, 1994, to comply with all provisions of this subtitle. '

Section 29. KRS 304.48-180 is amended to read as follows:

(1) Liability self-insurance groups shall file with the commissioner their rates, underwriting guidelines, evidence of coverage, and any changes therein. The filing shall be accompanied by a filing fee of five dollars ($5) per filing.

(2) The rates of a liability self-insurance group that self-insures medical care shall be automatically approved by the commissioner if the rates are equivalent to those specified in Section 15 of this Act.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 31 to 44 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. That there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. That transfer may pose a threat to the health or safety of the woman or the unborn child.

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Experimental treatment" means services or supplies, including treatments, procedures, hospitalizations, drugs, biological products or medical devices, which a peer review panel determines are not of proven benefit for the particular diagnosis or treatment of the covered person's particular condition, or not generally recognized by the medical community as effective or appropriate for the particular diagnosis or treatment of the covered person's particular condition, or provided or performed in special settings for research purposes or under a controlled environment or clinical protocol. Unless otherwise required by law with respect to drugs that have been prescribed for the treatment of a type of cancer for which the drug has not been approved by the United States Food and Drug Administration, the plan shall not cover any services or supplies including treatment, procedures, drugs, biological products, or medical devices or any hospitalization in connection with experimental or investigational services or supplies. The plan shall also not cover any technology or any hospitalization in connection with that technology if that technology is obsolete or ineffective and is not use generally by the medical community for the particular diagnosis or treatment of the covered person's particular condition. Governmental approval of a technology is not necessarily sufficient to render it of proven benefit or appropriate or effective for a particular diagnosis or treatment of the particular condition as provided in this subsection. The plan shall apply the following five (5) criteria in determining whether services or supplies are experimental or investigational:

(a) Any medical device, drug, or biological product shall have received final approval to market by the United States Food and Drug Administration (FDA) for the particular diagnosis or condition. Any other approval granted as an interim step in the FDA regulatory process, such as an investigational device exemption or an investigational new drug exemption, is not sufficient. Once FDA approval has been granted for a particular diagnosis or condition, use of the medical device, drug, or biological product for another diagnosis or condition requires that one (1) or more of the following established reference compendia: the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopeia Drug Information, recognize the usage as appropriate medical treatment. As an alternative to this recognition in one (1) or more of the compendia, the usage of the drug shall be recognized as appropriate if it is recommended by a clinical study and recommended by a review article in a major peer-

reviewed professional journal. A medical device, drug, or biological product that meets the tests in this paragraph will not be considered experimental or investigational. Any drug that the FDA has determined to be contraindicated for the specific treatment for which the drug has been prescribed will be considered experimental or investigational.

(b) Conclusive evidence from the published peer-review medical literature shall exist that the technology has a definite positive effect on health outcome; this evidence shall include well-designed investigations that have been reproduced by nonaffiliated authoritative sources, with measurable results, backed up by the positive endorsements of national medical bodies or panels regarding scientific efficacy and rationale;

(c) Demonstrated evidence as reflected in the published peer-review medical literature shall exist that over time the technology leads to improvement in health outcomes, such as the beneficial effects outweigh any harmful effects;

(d) Proof as reflected in the published peer-reviewed medical literature shall exist that the technology is at least as effective in improving health outcomes as established technology, or is usable in appropriate clinical contexts in which established technology is not employable; and

(e) Proof as reflected in the published peer-reviewed medical literature shall exist that improvements in health outcomes, as defined in paragraph (c) of this subsection, is possible in standard conditions of medical practice, outside clinical investigatory settings;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health insurance contract" has the meaning it is given in Section 1 of this Act;

(8) "Insurer" means "health insurance issuer" as defined in Section 1 of this Act;

(9) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers, who are selected to participate on the basis of explicit standards, to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(10) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(11) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(12) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(13) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 32 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care physicians and specialists, including available participating physicians, by provider category or specialty and by county. The directory shall include the professional office address of a primary care physician. The directory shall also provide information about participating hospitals. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care physician;

(b) General information about the type of financial incentives between participating physicians under contract with the insurer and other participating health care providers and facilities to which the participating physicians refer their managed care patients;

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care; and

(d) The availability through the department, upon request of a member of the general public, of independent consumer satisfaction survey results and where valid an analysis of quality outcomes of health care services of managed care plans in the state.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network physician is board certified; and

(b) Whether a particular network physician is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the medical specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty medical services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to

urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating medical specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features they may account for higher than or lower than expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, the insurer shall conduct a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of physicians, enrollees, and pharmacists regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating physicians and pharmacists;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in a physician's professional opinion, a physician determines that generic substitution of a pharmaceutical product is medically inappropriate, the physician shall prescribe the pharmaceutical product the physician determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the physician's approval.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A managed care plan that denies coverage for experimental services, including treatments, procedures, drugs, or devices for an enrollee, shall provide the enrollee with a denial letter within twenty (20) working days of the submitted request for the coverage. The letter shall include:

(1) The name and title of the person making the decision;

(2) A statement setting forth the specific medical and scientific reasons for denying coverage;

(3) A description of alternative treatment, services, or supplies covered by the plan, if any; and

(4) A copy of the plan's grievance and appeal procedure.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical protocols, respectively, of the insurer;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care physician from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards, established in accordance with administrative regulations promulgated by the commissioner, adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers.

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements.

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history.

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization of mental health and chemical dependency health services to be provided to the patient, and for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific consent to the redisclosure.

SECTION 41. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates

and performance-based contract terms that would result in the health insurer issuer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 42. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 31 to 44 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 31 to 44 of this Act.

SECTION 43. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the effective date of this section unless it and the insurer meet the requirements of Sections 31 to 44 of this Act.

Section 44. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to[~~ standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 45. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 7 -- Investments;

(7) Subtitle 12 -- Trade Practices and Frauds;

(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(9) Subtitle 17A -- Health Benefit Plans;

(10)[~~Subtitle 18 -- KRS 304.18-050;~~

~~(11)~~] Subtitle 25 -- Continuity of Management;

(11)[~~(12)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(12)[~~(13)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(13)[~~(14)~~] Subtitle 99 -- Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

SECTION 46. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The Kentucky Health Purchasing Alliance created under this subtitle shall not accept any new business after January 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than one (1) year after the effective date of this Act and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void one (1) year after the effective date of this Act.

Section 47. KRS 304.17A-030 is amended to read as follows:

The duties of the Kentucky Health Purchasing Alliance shall be as follows:

(1) Establishing the conditions of alliance membership as set forth in KRS 304.17A-020;

(2) Providing assistance to alliance members in selecting and obtaining coverage through accountable health plans and providing alliance members with clear, standardized information in the following areas:

  (a) A description of each accountable health plan under contract with the alliance and each health benefit plan offered by each accountable health plan;

  (b) Price, enrollee costs, quality, patient satisfaction, enrollment, and enrollee responsibilities for each accountable health plan and health benefit plan offered through the alliance; and

  (c) A comparison sheet containing each accountable health plan participating in the alliance with information on basic coverage that may be obtained through the alliance;

(3) Annually offering to all alliance members all accountable health plans and health benefit plans offered by the accountable health plans under contract with the alliance which meet the requirements set forth in KRS 304.17A-070, and enrolling alliance members in the health benefit plan of the member's choice;

(4) Requesting proposals for the offering of health benefit plans to alliance members from all accountable health plans in the area served by the alliance in a format to be determined by the alliance. At least one (1) health benefit plan shall have coverage for alliance members which is exactly the same as the coverage provided under Kentucky Kare Standard as of January 1, 1994. However, all health benefit plans shall include a hospice benefit at least equal to the Medicare hospice benefit. The alliance shall aggressively negotiate contracts and select accountable health plans to offer to members that best meet cost, quality, access, and service objectives, as determined by the alliance;

(5) Requesting proposals from all accountable health plans in the area served by the alliance for supplemental benefit plans approved by the department, determining if the proposals submitted by the accountable health plans meet the requirements of the request for proposals, and offering them as options through riders to the standard benefit plan;

(6) Distributing to health care purchasers retail price data on prescription drugs and their generic equivalents, durable medical equipment, and disposable medical supplies;

(7) Establishing administrative and accounting procedures for the operation of the alliance and members' services, preparing an annual budget for the alliance, and preparing an annual report on alliance operations for submission to the department;

(8) Developing and implementing a marketing and public information plan to publicize the alliance to potential members;

(9) Developing grievance procedures to be used in resolving disputes between alliance members and the health purchasing alliance and disputes between the accountable health plans and the health purchasing alliance. Any member of the alliance or accountable health plan that serves the alliance may appeal to the department any grievance that is not resolved by the alliance;

(10) Maintaining all records, reports, or other information required by the department or state law;

(11) Receiving and accepting grants, loans, advances, contributions, or funds from any public or private agency that are necessary for the operation of the alliance;

(12) Contracting with a qualified, independent third party, subject to approval of the department, for any service necessary to carry out the duties of the alliance;

(13) Developing a plan to facilitate participation of health care providers in accountable health plans in the area served by the

alliance, with emphasis on participation by physicians in medically underserved areas;

(14) Ensuring that any accountable health plan that has a market share of fifteen percent (15%) or greater within the Commonwealth is offered to members of the alliance along with other accountable health plans;

(15) Collecting premiums on behalf of participating accountable health plans, including the remittance of the share of the group premium paid by both an employer and an employee. The alliance shall pay participating accountable health plans their contracting premium amounts on a prepaid monthly basis, or as otherwise mutually agreed upon;

(16) Setting reasonable fees, of one and one-half percent (1.5%), which upon approval of the department may be increased to a maximum of three percent (3%), of annual premiums for health benefit plans offered by the alliance, which shall finance all reasonable and necessary costs incurred in administering the alliance. Imposition of fees shall be subject to the approval of the department; ***and***

(17) ~~[Administering a risk adjustment process implemented by the department pursuant to KRS 304.17A-130 if so directed by the department, but only as to accountable health plans participating in the alliance; and~~

~~(18)~~]Ensuring that each alliance member always has a choice of one (1) fee-for-service plan.

Section 48. KRS 304.17A-040 is amended to read as follows:

(1) The alliance shall establish conditions of participation in the alliance for employers which shall include:

(a) Assurance that the group is a valid employer. This assurance shall include requirements for sole proprietors and self-employed individuals relating to the length of time the sole proprietor or self-employed individual has been in business, documentation to verify employment status, and any other requirements to ensure that the individual is working;

(b) Assurance that the individuals in the employer group are employees and have not been added for the purpose of securing health benefit coverage;

(c) Assurance that an employer that lays off or terminates the employment of an employee allows the employee, at the employee's expense, the opportunity to continue coverage with any health benefit plan with which the employee was enrolled at the time of the layoff or termination of employment. The employee shall not be required to pay a premium that exceeds the amount charged to the employer or other employees; and

(d) Assurance that any employee who voluntarily terminates employment with an employer shall be permitted to continue to participate, at the employee's expense, in any health benefit plan with which the employee was enrolled at the effective date of the voluntary termination. The employee shall not be required to pay a premium that exceeds the amount charged to the employer or other employees.

(2) The alliance may require an employer seeking membership to agree to participate in the alliance for a specified minimum period of time, not to exceed one (1) year.

(3) The alliance shall not require an employer to pay any portion of premiums as a condition of participation in the alliance.

(4) Except as provided in subsection (5) of this section, if an employer who is a member of the alliance offers more than one (1) health benefit plan and the employer contributes to the coverage of employees or dependents of the employee, the alliance shall require that the employer contribute the same dollar amount for each employee, regardless of the health benefit plan chosen by the employee.

(5) If an employer, required by subsection (4) of this section to contribute the same dollar amount for coverage of each employee, employs part-time employees, the employer may proportionately reduce the dollar amount paid for coverage for part-time employees based on the difference between full-time employee hours and part-time employee hours.

(6)[~~Until such time as the five standard health benefit plans become operational as provided under KRS 304.17A-160, an employer that seeks to participate in the alliance shall be allowed to keep the same coverage that the employer offered to its employees immediately prior to becoming a member of the alliance.~~

~~(7)~~] No employer participating in the alliance shall be required to issue more than one (1) check per month to the alliance for payment of total health benefit plan premiums for the employer's covered employees.

Section 49. The following KRS sections are repealed:

304.17-380 Filing of rates.

304.17-383 Procedure for approval of rate filing containing increase.

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

304.17A-095 Insurer issuing health benefit plan must file rates and charges -- Commissioner's approval -- Hearing -- Notification of Attorney General -- Administrative regulations.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.

304.17A-130 Risk adjustment process -- Authority for administrative regulations.

304.17A-150 Unfair trade practices.

304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

304.38-080 Information to enrollees -- Open enrollment.

Section 50. Effective one year after the effective date of this Act, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans -- Certification.

Section 51. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 52. Sections 7, 8, 9, 10, 11, and 12 of this Act take effect on January 1, 1998.

Section 53. Whereas the public is being disadvantaged by the current instability in the Kentucky health insurance markets, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 65 to the House Committee Substitute to **SB 1**, by Representative Crall:

Page 1, by deleting everything in the bill after the enacting clause and inserting:

"SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169);

(c) 42 U.S.C. sec. 300bb.

(2) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C. sec. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 7 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(3) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(4) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a

health maintenance organization, licensed under this chapter. It does not include a group health plan.

(5) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169);

(c) 42 U.S.C. sec. 300bb.

(2) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. sec. 1395j et seq.) or a state plan under Title XIX of the Social Security Act (42 U.S.C. sec. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 8 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program.

(3) "Group health plan" means an employee welfare benefit plan as defined in 29 U.S.C. sec. 1002(1) to the extent that the plan provides medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise.

(4) "Group health insurance coverage" means, in connection with a group health plan, health insurance coverage offered in connection with such a plan.

(5) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(6) "Health insurance issuer" means an insurance company, insurance service, or insurance organization, including a health maintenance organization, licensed under this chapter. It does not include a group health plan.

SECTION 3. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an eligible individual desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual and shall comply with the provisions of 42 U.S.C. sec. 300gg-41.

(2) Each health insurance issuer that offers health insurance coverage in the individual market may not, with respect to an individual, who is not an eligible individual under subsection (1) of this section, desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual if the individual has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of this Act and is covered under an individual health benefit plan on the effective date of this Act or at any time during the sixty (60) days immediately preceding the effective date of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise:

(a) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year.

(b) "Small group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a

group health plan maintained by a small employer.

(2) Each health insurance issuer that offers health insurance coverage in the small group market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and shall comply with the provisions of 42 U.S.C. sec. 300gg-11.

SECTION 5. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All group health plans and health insurance issuers offering group health insurance coverage in the Commonwealth shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for pre-existing conditions exclusions, including crediting previous coverage, special enrollment periods, and use of affiliation periods.

SECTION 6. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth shall not impose any preexisting exclusions as to any eligible individual.

(2) Each health insurance issuer offering individual health insurance coverage in the individual market in the Commonwealth that chooses to impose a preexisting conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of 42 U.S.C. sec. 300gg, which establishes standards and requirements for preexisting conditions exclusions for group health plans.

SECTION 7. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force coverage at the option of the individual.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one (1) or more of the following:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The issuer is ceasing to offer coverage in the individual market in accordance with subsection (3) of this section.

(d) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(e) In the case of health insurance coverage that is made available in the individual market only through one (1) or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of the type may be discontinued by the issuer only if:

1. The issuer provides notice to each covered individual provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

a. The issuer provides notice to the commissioner and to each individual of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the individual market, the *issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.*

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one (1) or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member.

• SECTION 8. A NEW SECTION OF SUBCHAPTER 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, if a health insurance issuer offers health insurance coverage in the group market in connection with a group health plan, the issuer shall renew or continue in force coverage at the option of the plan sponsor of the plan.

(2) A health insurance issuer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the group market based only on one (1) or more of the following:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(b) The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules.

(d) The issuer is ceasing to offer coverage in the group market in accordance with subsection (3) of this section.

(e) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with the plan who resides, lives, or works in the service area of the issuer (or in the area for which the issuer is authorized to do business).

(f) In the case of health insurance coverage that is made available in the group market only through one (1) or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the group market, coverage of the type may be discontinued by the issuer in the market only if:

1. The issuer provides notice to each plan sponsor provided coverage of this type in the market (and participants and beneficiaries covered under the coverage) of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The issuer offers to each plan sponsor provided coverage of this type in the market, the option to purchase all other health insurance coverage currently being offered by the issuer to a group health plan in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the issuer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for coverage.

(b) 1. In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the group market in Kentucky, health insurance coverage may be discontinued by the issuer only if:

a. The issuer provides notice to the commissioner and to each plan sponsor (and participants and beneficiaries covered under the coverage) of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the group market, the issuer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan in the group market if, for coverage that is available in the market other than only through one (1) or more bona fide associations, the modification is consistent with this chapter and effective on a uniform basis among group health plans with that product.

(5) In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the group market to employers only through one (1) or more associations, a reference to plan sponsor is deemed, with respect to coverage provided to an employer member of the association, to include a reference to the employer.

SECTION 9. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

SECTION 10. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995 until the effective date of this Act, issued standard health benefit plans under to KRS 304.17A-160 and then ceased doing business in Kentucky, may apply to the commissioner on or after the effective date of this Act to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 11. KRS 304.17-383 is amended to read as follows:

(1) No filing under KRS 304.17-380 that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may hold a hearing within thirty (30) days after receiving a filing under this subtitle containing a rate increase, and after the hearing shall issue a final order approving or disapproving the filing.

(2) In approving or disapproving a filing under subsection (1) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for the policies to which the filing applies; and

(c) The effect of the increase on policyholders.

(3) The commissioner shall notify the Attorney General in writing of the hearing and of the premium increase to be considered. The Attorney General shall be considered a party to the hearing if he chooses to participate.

(4) No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same policies until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after an administrative hearing may withdraw approval of rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged. Administrative hearings conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(6) (a) Subsections (1) to (3) of this section shall not apply and premium rates shall be deemed approved upon filing with the Department of Insurance if the filing is accompanied by a loss ratio guarantee, and benefits shall be deemed reasonable in relation to the premium rates so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee shall be in writing and shall contain at least the following:

1. A recitation of the anticipated loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved by the commissioner;

2. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the loss ratio standards referred to in subparagraph 1. of this paragraph. If the annual earned premium volume in Kentucky under the particular policy form is less than one million dollars ($1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form;

3. A guarantee that the actual Kentucky loss ratio results for each year at issue shall be independently audited at the insurer's expense. This audit shall be done in the second quarter of the next year and the audited results shall be reported to the commissioner not later than the date for filing the applicable accident and health policy experience exhibit;

4. A guarantee that affected Kentucky policyholders will be issued a proportional refund, based on premium paid, of the amount necessary to bring the actual aggregate loss ratio up to the anticipated

loss ratio standards referred to in subparagraph 1. of this paragraph. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of the last of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from the end of the year at issue until the date of payment. Payment shall be made during the third quarter of the next year; and

5. A guarantee that refunds of less than ten dollars ($10) will be aggregated by the insurer and paid to the Department of Insurance.

(b) As used in this subsection, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.

(7) (a) At renewal the insurer may replace modified community rates with rates determined in accordance with paragraph (b) of this subsection.

(b) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%).

(c) For purposes of this subsection, "index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

Section 12. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 13. KRS 367.160 is amended to read as follows:

(1) All departments, agencies, officers, and employees of the Commonwealth shall fully cooperate with the Attorney General in carrying out the functions of KRS 367.120 to 367.300.

(2) The persons designated by the Attorney General as utility consumer intervenors shall have the same access to material evidence and information of the Public Service Commission relating to any case before it as other parties to the case.

[~~(3) The persons designated by the Attorney General as health insurance consumer intervenors shall have the same access to material evidence and information of the commissioner of the Department of Insurance relating to any health insurance rate hearings before it as other parties to the hearing.~~]

Section 14. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.

[~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard~~

~~health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed-issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~] If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 15. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to[~~ standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 16. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 3 -- Authorization of Insurers and General Requirements;
(4) Subtitle 4 -- Fees and Taxes;
(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;
(6) Subtitle 7 -- Investments;
(7) Subtitle 12 -- Trade Practices and Frauds;
(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;
(9) Subtitle ***17 -- Sections 3, 6, 7, and 9 of this Act***~~[17A -- Health Benefit Plans]~~;
(10) Subtitle 18 -- ***Sections 4, 5, 8, and 10 of this Act***~~[KRS 304.18-050]~~;
(11) Subtitle 25 -- Continuity of Management;
(12) Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(13) Subtitle 37 -- Insurance Holding Company Systems; and
(14) Subtitle 99 -- Penalties.

~~[The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.]~~

SECTION 17. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each individual health insurance policy issued, delivered, or renewed on or after the effective date of this Act that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 18. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each group health insurance policy issued, delivered, or renewed on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 19. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each policy, contract, or plan issued, delivered, or renewed on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 20. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each certificate, agreement, policy, or contract issued, delivered, or renewed by a health maintenance organization on or after the effective date of this Act, that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 21. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An individual health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of

"Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 22. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A group health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 23. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A policy, contract, or plan issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 24. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A certificate, agreement, policy, or contract issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after January 1, 1998. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than December 31, 1997, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on January 1, 1998.

(2) A provider-sponsored integrated health delivery network created under this subtitle shall not accept any new business on or after the effective date of this Act. The commissioner shall not issue a certificate of filing to a network on or after the effective date of this Act. KRS 304.17A-300 and 304.17A-310 shall become null and void on January 1, 1998.

(3) No health benefit plans shall be issued, delivered, or renewed under the provisions of this subtitle on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS Chapter 17A until the end of the contract or policy period or December 31, 1997, whichever comes first. The provisions of KRS 304.17A-095 to 304.17A-171 shall become null and void on January 1, 1998.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 26 to 39 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

- *(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:*
  - *1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;*
  - *2. Serious impairment to bodily functions; or*
  - *3. Serious dysfunction of any bodily organ or part; or*
- *(b) With respect to a pregnant woman who is having contractions:*
  - *1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or*
  - *2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child.*

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Experimental treatment" means services or supplies, including treatments, procedures, hospitalizations, drugs, biological products or medical devices, which a peer review panel determines are not of proven benefit for the particular diagnosis or treatment of the covered person's particular condition, or not generally recognized by the medical community as effective or appropriate for the particular diagnosis or treatment of the covered person's particular condition, or provided or performed in special settings for research purposes or under a controlled environment or clinical protocol. Unless otherwise required by law with respect to drugs that have been prescribed for the treatment of a type of cancer for which the drug has not been approved by the United States Food and Drug Administration, the plan shall not cover any services or supplies including treatment, procedures, drugs, biological products, or medical devices or any hospitalization in connection with experimental or investigational services or supplies. The plan shall also not cover any technology or any hospitalization in connection with that technology if that technology is obsolete or ineffective and is not used generally by the medical community for the particular diagnosis or treatment of the covered person's particular condition. Governmental approval of a technology is not necessarily sufficient to render it of proven benefit or appropriate or effective for a particular diagnosis or treatment of the particular condition as provided in this subsection. The plan shall apply the following five (5) criteria in determining whether services or supplies are experimental or investigational:

- *(a) Any medical device, drug, or biological product shall have received final approval to market by the United States Food and Drug Administration (FDA) for the particular diagnosis or condition. Any other approval granted as an interim step in the FDA regulatory process, such as an investigational device exemption or an investigational new drug exemption, is not sufficient. Once FDA approval has been granted for a particular diagnosis or condition, use of the medical device, drug, or biological product for another diagnosis or condition requires that one (1) or more of the following established reference compendia: the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopeia Drug Information, recognize the usage as appropriate medical treatment. As an alternative to this recognition in one (1) or more of the compendia, the usage of the drug shall be recognized as appropriate if it is recommended by a clinical study and recommended by a review article in a major peer-reviewed professional journal. A medical device, drug, or biological product that meets the tests in this paragraph shall not be considered experimental or investigational. Any drug that the FDA has determined to be contraindicated for the specific treatment for which the drug has been prescribed shall be considered experimental or investigational;*
- *(b) Conclusive evidence from the published peer-review medical literature shall exist that the technology has a definite positive effect on health outcome; this evidence shall include well-designed investigations that have been reproduced by nonaffiliated authoritative sources, with measurable results, backed up by the positive endorsements of national medical bodies or panels regarding scientific efficacy and rationale;*
- *(c) Demonstrated evidence as reflected in the published peer-review medical literature shall exist that over time the technology leads to improvement in health outcomes, such as the beneficial effects outweigh any harmful effects;*
- *(d) Proof as reflected in the published peer-reviewed medical literature shall exist that the technology is at least as effective in improving health outcomes as established technology, or is usable in appropriate clinical*

contexts in which established technology is not employable; and

(e) Proof as reflected in the published peer-reviewed medical literature shall exist that improvements in health outcomes, as defined in paragraph (c) of this subsection, is possible in standard conditions of medical practice, outside clinical investigatory settings;

(6) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or any health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure.

(8) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A.

(9) "Health insurance policy" means "health benefit plan" as defined in this section;

(10) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(11) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(12) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(13) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(14) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(15) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-

450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 27 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care physicians and specialists, including available participating physicians, by provider category or specialty and by county. The directory shall include the professional office address of a primary care physician. The directory shall also provide information about participating hospitals. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care physician;

(b) General information about the type of financial incentives between participating physicians under contract with the insurer and other participating health care providers and facilities to which the participating physicians refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network physician is board certified; and

(b) Whether a particular network physician is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice

physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the medical specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty medical services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating medical specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of physicians, enrollees, and pharmacists regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating physicians and pharmacists;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in a physician's professional opinion, a physician determines that generic substitution of a pharmaceutical product is medically inappropriate, the physician shall prescribe the pharmaceutical product the physician determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the physician's approval.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A managed care plan that denies coverage for experimental services, including treatments, procedures, drugs, or devices for an enrollee, shall provide the enrollee with a denial letter within twenty (20) working days of the submitted request for the coverage. The letter shall include:

(1) The name and title of the person making the decision;

(2) A statement setting forth the specific medical and scientific reasons for denying coverage;

(3) A description of alternative treatment, services, or supplies covered by the plan, if any; and

(4) A copy of the plan's grievance and appeal procedure.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical protocols, respectively, of the insurer;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care physician from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers.

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements.

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history.

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care

for authorization of mental health and chemical dependency health services to be provided to the patient, and for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific consent to the redisclosure.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer issuer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 29 to 42 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 29 to 42 of this Act.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the effective date of this section unless it and the insurer meet the requirements of Sections 26 to 39 of this Act

Section 40. KRS 304.17A-080 is repealed, reenacted as a new section of Subtitle 2 of KRS Chapter 304, and amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

(a) ~~[The design of the standard health benefit plans pursuant to KRS 304.17A-160;~~

~~(b)~~] The rate-filing process for all health benefit plans;

(b)[~~(c)~~]The definition of high-risk conditions;

(c)[~~(d)~~]The administrative regulations concerning this subtitle to be promulgated by the department; and

(d)[~~(e)~~]Other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

[~~(5) The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner.~~]

Section 41. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 26. Effective January 1, 1998, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.
304.17A-030 Duties of the Kentucky Health Purchasing Alliance.
304.17A-040 Conditions of participation in the alliance.
304.17A-050 Duties of the Department of Insurance with respect to the alliance.
304.17A-060 Supervision of alliance by department relative to antitrust laws.
304.17A-070 Creation of accountable health plans -- Certification.
304.17A-095 Insurer issuing health benefit plan must file rates and charges -- Commissioner's approval -- Hearing -- Notification of Attorney General -- Administrative regulations.
304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.
304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.
304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.
304.17A-130 Risk adjustment process -- Authority for administrative regulations.
304.17A-135 Coverage for treatment of breast cancer.
304.17A-140 Coverage applicable to children to include legally-adopted children.
304.17A-145 Maternity coverage to include specified amounts of inpatient care for mothers and newly-born children -- Exemption.
304.17A-150 Unfair trade practices.
304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.
304.17A-170 Definitions for KRS 304.17A-170 and 304.17A-171.
304.17A-171 Requirements for health benefit plans that include chiropractic benefits.
304.17A-300 Provider-sponsored integrated health delivery network -- Qualifications -- Fees --`Network subject to provisions of other subtitles.
304.17A-310 Financial solvency requirements for network.

Section 27. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth and premium rates have increased which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and Sections 1 to 39 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.".

Floor Amendment No. 66 to the House Committee Substitute to **SB 1**, by Representative Anderson:

On page 18, line 8, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 19, line 4, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 20, line 16, by deleting "***(a)***"; and

On page 20, by deleting lines 19 to 27; and

On page 21, by deleting lines 1 to 14; and

On page 27, line 5, by deleting "***, including the plan created in Section 14 of this Act,***"; and

On page 27, by deleting lines 10 to 27; and

By deleting pages 28 to 43 in their entirety; and

On page 44, by deleting lines 1 to 14; and

On page 27, after line 9, by inserting:

"SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 13 to 22 of this Act may be referred to as the Kentucky Guaranteed Issue Funding Program.

(2) There is hereby created the Kentucky Guaranteed Issue Funding Program, which shall be operational on or before January 1, 1998. For purposes of Sections 13 to 22 of this Act, "program" means the Kentucky Guaranteed Issue Funding Program.

(3) The General Assembly finds that the guaranteed issue provisions created by this subtitle will provide access to health insurance to residents of Kentucky at costs that, in particular cases, will be substantially above the premiums that individuals will pay for coverage. The Kentucky Guaranteed Issue Funding Program is created to:

(a) Encourage private insurers to participate in the individual market by establishing a means to allocate the losses that insurers issuing coverage in the individual market incur with respect to policies defined as high-cost policies in Section 14 of this Act;

(b) Provide a mechanism for persons with a high-cost condition to maintain access to coverage in the private insurance market by means of the allocation process in paragraph (a) of this subsection; and

(c) Provide a safety net of insurance coverage to persons with a high-cost condition in areas of Kentucky where alternatives for individual coverage are restricted or unavailable as defined in Section 17 of this Act.

(4) The Kentucky Guaranteed Issue Funding Program is also designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(5) All insurers, reinsurers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Issue Funding Program and be subject to an assessment.

(6) As a condition of doing business in the Commonwealth of Kentucky, all insurers writing health insurance policies and plans in this state shall:

(a) 1. Support the program by paying an assessment as defined in Section 14 of this Act; or

2. Participate in the program by insuring individuals with high-cost conditions; and

(b) Pay their proportionate share of the cost of the program based on their market share, as set forth in Section 14 of this Act.

(7) During the transition from the effective date of this Act until the date the program begins issuing coverage, the commissioner shall act on behalf of the program.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 13 to 22 of this Act, unless the context requires otherwise:

(1) "Actual high-cost policy losses" means a dollar amount calculated by subtracting an insurer's high-cost policy claims from that insurer's high-cost policy premiums.

(2) "Adjusted total high-cost policy losses" means an amount calculated by subtracting all reinsurer assessments under Section 21 of this Act from the total actual high-cost policy losses.

(3) "Allocated high-cost policy losses" means the amount obtained by multiplying the insurer's market share by the amount of the adjusted total high-cost policy losses.

(4) "Assessment" means the following:

(a) With respect to an insurer, an amount calculated by subtracting an insurer's allocated high-cost policy losses from the insurer's actual high-cost policy losses. If the amount calculated is greater than zero, it shall be treated as a refund; and

(b) With respect to a reinsurer, the amount assessed under Section 21 of this Act.

(5) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" does not include an insurer's administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(6) "Covered life" means a person who has health insurance coverage.

(7) "Diagnosed" means any of the following:

(a) A physician, or other qualified health care practitioner as may be defined by the commissioner by administrative regulation, has reached, consistent with ordinary care in that person's profession, the conclusion that a person has contracted or is suffering from a medical condition;

(b) A person who has stated in any application for a health care policy that the person or any person entitled to benefits under the health care policy has contracted or is suffering from any human ailment, deficiency, deformity, disease, injury, pain, or physical condition; or

(c) Such other definition as the commissioner may by administrative regulation reasonably establish.

(8) "First issuance" means the date a person first became eligible for benefits under a health insurance policy.

(9) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market.

(10) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in

part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount.

(11) "High-cost policy" means a health insurance policy that is eligible for inclusion in calculating assessments and refunds under the program.

(12) "High-cost policy claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to high-cost policies or such other claim measurement formula as the commissioner may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead cost, with respect to a high-cost policy.

(13) "High-cost policy premiums" means the dollar amount of premiums received by an insurer with respect to high-cost policies.

(14) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers.

(15) "Other coverage" means coverage under any of the following:

- *(a) A group health plan;*
- *(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c, et seq.;*
- *(c) A state plan under Title XIX of the Social Security Act, or any successor program;*
- *(d) Continuation coverage under any COBRA continuation provision as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or*
- *(e) Any other health insurance coverage that is not individual health insurance coverage.*

(16) "Participating carrier" means a carrier that actively offers high-cost policies in the individual health insurance market through the program and accepts all applicants that apply within the carrier's proportionate share.

(17) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve, or other overhead costs.

(18) "Program" means the Kentucky Guaranteed Issue Funding Program.

(19) "Refund" means an amount to be paid to an insurer by the program.

(20) "Reinsurer" means any person providing health insurance stop-loss coverage.

(21) "Reinsurance premiums" means amounts paid to reinsurers to purchase health insurance stop-loss coverage.

(22) "Supporting carrier" means a carrier not offering high-cost policies in the individual health insurance market through the program; the carrier shall not pay an assessment as defined in this section to assist in subsidizing the costs incurred by the program and any participating carriers.

(23) "Total actual high-cost policy losses" means a dollar amount equal to the sum of the actual high-cost policy losses of the program.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall administer the provisions of Sections 13 to 22 of this Act, and the commissioner's duties and responsibilities to the program include:

- *(a) Appoint an administrator and hire any additional staff required to accomplish the requirements of Sections 13 to 22 of this Act;*
- *(b) Take any legal actions necessary, including action to recover or collect assessments due the program;*
- *(c) Establish administrative and accounting procedures for the operation of the program;*
- *(d) Establish procedures under which applicants and participants in the program may have grievances reviewed by an impartial body and reported to the commissioner;*
- *(e) Collect the fees and any assessments in accordance with Sections 13 to 22 of this Act; and*
- *(f) Provide written reports to the Governor and the Legislative Research Commission annually of all activities of the program. The commissioner shall by administrative regulation determine what reports and data need to be reported.*

(2) The commissioner shall, by administrative regulation, establish a list of high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All health insurers may elect to participate in providing health insurance coverage to individuals with a high-cost condition under the Kentucky Guaranteed Issue Funding Program under the following conditions:

(a) Network-based insurers may limit coverage to those benefit plans offered to persons residing in the geographic area covered by the providers network;

(b) A group carrier may elect to offer coverage to persons with a high-cost condition without otherwise operating in the individual market; and

(c) Any participating carrier may limit the number of persons enrolled with a high-cost condition to the proportion of the insurer's market share. A carrier that reaches its enrollment limit during a given month shall immediately notify the commissioner and shall continue issuing coverage throughout the end of that month. High-cost policies that are enrolled with a carrier on the effective date of this Act and health insurance policies that were not high cost at the time of first issuance, but that become high-risk policies, may be counted toward the enrollment cap of a participating carrier.

(2) The commissioner shall publicize a monthly list of participating carriers that offer coverage to individuals with a high-cost condition.

(3) A health insurance policy shall be considered a high-cost policy and is eligible for inclusion in calculating assessments and refunds under the program if it meets all of the following criteria:

(a) The health insurance policy is purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children;

(b) Under the program, an individual entitled to benefits has a defined high-cost condition;

(c) The lifetime claims that have been paid under the health insurance policy have not exceeded one million dollars ($1,000,000). The lifetime claims limit shall not apply if the policy was issued before the effective date of this section, or is a renewal of a policy that was issued before the effective date of this Act;

(d) The health insurance policy imposes the maximum pre-existing condition exclusion permitted under Section 4 of this Act;

(e) The individual purchasing the health insurance policy is not eligible for or covered by other coverage;

(f) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A; and

(g) Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this subsection even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year.

(4) Notwithstanding any other provision of this section, a health insurance issuer shall not be required to utilize the experience of high cost policies under the program to develop index rates for its individual policies under Section 9 of this Act.

SECTION 17. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The program shall create the Kentucky Safety Net plan as an alternative coverage limited to those circumstances listed in subsection (3) of this section.

(2) The Kentucky Safety Net portion of the program shall be operational from the date the program becomes operational to April 14, 2000.

(3) The Kentucky Safety Net portion of the program shall be made available on a guaranteed issue basis only to persons with a high-cost condition who are not eligible for coverage through an employer or any governmental program, and only under the following circumstances:

(a) There is no health insurance coverage available from a private participating carrier in the geographic area of the individual; or

(b) There is only one (1) participating carrier offering coverage in the geographic area of the individual.

(4) The Kentucky Safety Net portion of the program shall offer two (2) health benefit plans to participants similar to the health benefit plans in existence at the time of the effective date of this Act. Initially, one (1) plan shall be the standard high plan in effect on the effective date of this Act, except that it shall contain a lifetime limit of one million dollars ($1,000,000) per covered individual. Health benefit plans shall be offered with high and low cost-sharing options. Both plans shall include utilization review and case management.

(a) No pre-existing condition exclusion under the Kentucky Safety Net portion of the program shall be applied to individuals who have eighteen (18) months of creditable coverage with no more than sixty-three (63) days' lapse in coverage prior to application in the program.

(b) A twelve (12) month pre-existing condition exclusion shall be imposed with a credit for prior coverage on individuals who do not meet the requirements of paragraph (a) of this subsection.

(5) Rates for health insurance coverage issued under the Kentucky Safety Net portion of the program shall initially not exceed one hundred fifty percent (150%) of the average statewide rate in the commercial individual market for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(6) Net losses of the Safety Net portion of the program shall be included in the total losses of the program and shall be reimbursed from assessments.

(7) The commissioner shall have the following powers and duties on behalf of the Safety Net portion of the program:

(a) Enter into any contracts as are necessary or proper to carry out the provisions of Sections 13 to 22 of this Act;

(b) Design and offer health insurance policies that are to be available three hundred sixty-five (365) days per year on a guaranteed issue basis to eligible individuals;

(c) Develop a program to publicize the existence of the Safety Net portion of the program, the eligibility requirements for the Safety Net portion of the program, and the procedures for enrollment in the Safety Net portion of the program, and to maintain public awareness of the Safety Net portion of the program;

(d) Determine a fee for licensed insurance agents that place business through, or refer business to, the Safety Net portion of the program;

(e) Provide for reinsurance of risks incurred by the Safety Net portion of the program;

(f) Issue policies of insurance in accordance with the requirements of Sections 13 to 22 of this Act;

(g) Establish and modify from time to time, as appropriate, rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas, and any other function appropriate to the operation of the Safety Net portion of the program;

(h) Prepare and distribute application forms and enrollment instruction forms to insurance producers and to the general public;

(i) Appoint or hire appropriate legal, actuarial, and other professionals as necessary to provide technical assistance in the operation of the Safety Net portion of the program;

(j) Provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plans more cost-effective; and

(k) Design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services.

(8) After April 14, 2000, this section shall become null and void.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For a health insurance policy that is a high-cost policy at the time of first issuance, an insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the maximum annual premium that the insurer could charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(2) (a) If a health insurance policy that was not a high-cost policy at the time of first issuance thereafter becomes a high-cost policy, the insurer may not increase the premium on account of the health insurance policy becoming a high-cost policy until the date of first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition. Nothing in this subsection shall prohibit an increase in premiums that could be imposed on an equivalent health insurance policy that was not a high-cost policy. At the time of the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) At the time of each subsequent renewal after the first renewal of the health insurance policy after the date on which high-cost policy claims are paid under the policy for a high-cost condition, the insurer may charge an annual premium of up to one hundred and fifty percent (150%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(3) If an individual was not without health insurance coverage for more than sixty-three (63) days immediately preceding the purchase of a high-cost health insurance policy that is eligible under the program, the insurer may charge an annual premium of up to one hundred and twenty-five percent (125%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy. At the time of each subsequent renewal of the high-cost health insurance policy, the insurer may charge an annual premium as allowed under subsection (1) of this section.

(4) (a) Notwithstanding the provisions of subsections (1, (2), and (3) of this section, the commissioner may, for good cause shown, authorize increasing the annual premium on a high-cost policy up to two hundred percent (200%) of the annual premium that the insurer would then charge for an identical health insurance policy with identical benefits issued to the same policyholder but assuming no individual entitled to benefits under the health insurance policy had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

(b) Rates for health benefit plans issued by the program shall not exceed two hundred percent (200%) of the average standard rate for similar coverage.

(c) All rates for health benefit plans issued by the program shall be filed with and approved by the commissioner.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each calendar year that the program is operating, every insurer shall report to the commissioner and the program, in the form and at the time as the commissioner by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of high-cost policies in force as of December 31;

(c) The amount of the insurer's high-cost policy premiums received during the calendar year covered by the report;

(d) The amount of the insurer's high-cost policy claims paid during the calendar year covered by the report; and

(e) Such other information as the commissioner may, by administrative regulation, require be reported to operate the program.

Nothing contained in this subsection shall prohibit the commissioner from conducting examinations of insurers participating in the plan as is permitted by KRS 304.2-100 or from exercising other powers as are conferred upon the commissioner or the department by this chapter.

(2) At the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the commissioner shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of high-cost policy premiums for all reporting insurers;

(c) The total amount of high-cost policy claims paid by all reporting insurers;

(d) The total amount of total actual high-cost policy losses;

(e) The amount of the adjusted total actual high-cost policy losses;

(f) The amount of each insurer's allocated high-cost policy losses;

(g) The amount of the insurer's assessment or refund; and

(h) Such other information as the commissioner may elect to calculate and report.

The commissioner shall complete the calculation and provide each insurer the results of the calculation within forty-five (45) days after the reporting deadline.

(3) The commissioner shall prepare quarterly estimated calculations for the purposes of allowing all insurers to budget for their annual assessments and refunds.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, the commissioner shall, by administrative regulation promulgated within ninety (90) days of the effective date of this Act, require that high-cost policies contain cost containment features, including managed care and utilization management, to control the amount of high-cost policy losses without creating adverse health care outcomes. If the commissioner fails to timely promulgate administrative regulations, health insurance issuers shall impose cost containment features.

(2) The Health Insurance Advisory Council shall no less than annually review the list of high-cost conditions established by the commissioner under subsection (12) of Section 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes the commissioner deems appropriate. In making recommendations the council, and in making changes the commissioner, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(3) For each calendar year that the program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each reinsurer shall pay an annual assessment to the program in an amount that is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Assessments from insurers shall be paid within thirty (30) days after written notice is mailed or delivered to the assessed insurer.

(2) Assessments from reinsurers shall be paid quarterly according to a procedure established by the commissioner by administrative regulation.

(3) Assessments shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located. In addition to being assessed interest, an insurer that fails to timely pay an assessment shall be in violation of this chapter.

(4) All assessments shall be paid in trust for the exclusive benefit of insurers who participate in the program to a single depository designated in accordance with KRS 304.8-090(1) under a trust agreement in accordance with KRS 304.8-095. The moneys in the trust shall be held separate and apart from any other funds or moneys of any insurer and of the state and shall be used and administered exclusively for the purposes of the program. Withdrawals from the trust shall be made solely for:

(a) Payments of refunds;

(b) Payments of overpayments made by an insurer;

(c) Payments of administrative costs for the administration of the trust, as specified in the trust agreement, but not to exceed the extent of earnings on the prudent investment of the assets of the trust; and

(d) For other purposes necessary to administer the program as the commissioner may by administrative regulation specify, except that the commissioner may not cause his or her expenses or the expenses of the department or of any agency of the state to be paid from the trust.

The commissioner, the State Treasurer, the State Auditor, the Attorney General, and any insurer may inspect the records of the trust during the business hours of the depository.

(5) A refund may be only paid by the depository trustee upon receipt of a written instruction to pay a refund signed by the commissioner or the commissioner's designee, and the depository trustee shall promptly pay a refund upon receipt of a proper instruction. The commissioner shall instruct the depository trustee to make a required refund no later than forty-five (45) days after written notice to the insurer of the commissioner's calculation. All refunds shall be paid in lawful money of the United States and shall accrue interest on and after the due date at four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District in which Frankfort, Kentucky, is located.

(6) After collecting all assessments to pay for the program, paying all refunds to participating carriers, and paying other administrative costs for each fiscal year, the commissioner shall calculate whether there remain any excess sums on deposit in the trust. Any excess, less any necessary reserves for the operation of the program as certified by the

depository trustee, shall be refunded to all insurers who participated in the program for the entire fiscal year in proportion to their market share at the end of the prior year.

(7) Except for records that individually or in the aggregate would or could likely disclose information about the physical or mental condition of an individual, the records of the trust and its operation shall be considered public records for purposes of the Kentucky Open Records Law, KRS 61.870 to 61.884.

SECTION 23. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Insurer tax" means any tax imposed by KRS 136.330, 136.340, 136.350, 136.370, or 304.3-270.

(b) "Allocated high-cost policy losses" has the same meaning as in Section 14 of this Act.

(2) An insurer who participates in the Kentucky Guaranteed Issue Funding Program shall be entitled to a credit against any insurer tax due and payable in the year in which the insurer tax is due and payable. The amount of the tax credit shall be equal to the amount of the insurer's assessment less the amount of refunds paid to the insurer.

(3) If the amount of the insurer tax for any year is less than the amount of tax credit allowed under subsection (2) of this section, the insurer may apply any unused tax credit against insurer taxes due and payable in any of the next five (5) years."; and

On page 44, line 15, by deleting "28" and inserting "24"; and

On page 45, lines 17 and 18, by deleting "***the board of the Kentucky comprehensive health insurance plan,***"; and

On page 45, line 19, by deleting the comma; and

On page 46, line 6, by deleting all words on the line after "***lapse.***"; and

On page 46, by deleting lines 7 and 8; and

On page 46, lines 10 and 11, by deleting "***the board of the Kentucky Comprehensive Health Insurance Plan,***"; and

On page 46, line 12, by deleting the comma; and

On page 46, line 24, by deleting all words on the line after "***1998.***"; and

On page 46, by deleting lines 25 to 27; and

On page 47, line 3, by deleting "29" and inserting "25" and renumbering all subsequent sections; and

On page 47, line 5, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 52, line 14, by deleting "***30***" and inserting "***26***"; and

On page 62, lines 22 and 24, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 2, by deleting "***29 to 42***" and inserting "***25 to 38***"; and

On page 63, line 14, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 66, line 21, by deleting "***Section 27***" and inserting "***Sections 13 to 22***"; and

On page 90, after line 8, by inserting:

"304.17A-130 Risk adjustment process – Authority for administrative regulations."; and

On page 90, by deleting lines 12 to 22; and renumbering all subsequent sections; and

On page 90, line 23, by deleting "62" and inserting "58".

Floor Amendment No. 67 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 89, line 15, Insert after "***five percent (5%).***" the following new sentence:

"***The members of the General Assembly participating in the Kentucky Kare plan shall have the option to accept or reject the rate freeze. The Personnel Cabinet shall provide enrolled and enrolling members of the General Assembly with a form for accepting or rejecting the rate freeze before the end of the current enrollment period.***".

Floor Amendment No. 68 to the House Committee Substitute to **SB 1**, by Representative Mason:

On page 30, line 5, Insert after the words "***participate in***" the word "***financing***".

Adjournment

Representative L. Clark moved that the House adjourn until 4:00 p.m., Monday, October 13, 1997. The motion that the House adjourn until 4:00 p.m., Monday, October 13, 1997 was adopted by voice vote.

MONDAY, OCTOBER 13, 1997

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Steve Pattison, Capital City Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Stacy and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of October 10, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 25**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the loss of one of their own Pearl Strong, former legislator, friend and colleague. Members of the House of Representatives do honor said individual and send prayers of solace to his devastated family, whose loss is irreplaceable. This distinguished body doth share in this phenomenal tragedy and will sadly miss the former "Gentleman from Perry" but offers the hope that Pearl Strong is serene beyond the cares and worries of this world and is now wearing that crown of jewels so ardently deserved. And on this tenth day of October, the Kentucky House of Representatives doth hereby adjourn in solemn memory of this outstanding person who will long be remembered in Kentucky history. **Legislative Citation No. 25** was adopted without objection.

On the roll call to show co-sponsors of **Legislation Citation No. 25**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crall, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Nunn, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stein, Stewart, Stine, Stumbo, Thomas, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman.

Representative Hatcher moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Hatcher moved the adoption of the following **Legislative Citation No. 26**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Lyman T. Johnson. This distinguished body joins Representative E. Porter Hatcher, Jr. in paying tribute to Lyman T. Johnson--civil rights activist, educator, emancipator, visionary; a legend in his own time. This native of Columbia, Tennessee, grandson of four slaves, earned a bachelor's degree from Virginia Union University in Richmond, Virginia and a master's degree from the University of Michigan. After serving in the Navy, he came to Louisville, Kentucky in 1933 as a teacher at Central High School. In 1936, Lyman T. Johnson married Marries Juanita Morrell. To this union was born a daughter, Yvonne, and a son, Lyman Morrell. Mr. Johnson was very active in the Louisville Branch NAACP, serving two terms as president and agreed to be the plaintiff in a 1964 lawsuit that opened the University of Kentucky to black students. Lyman T. Johnson was a leader/activist in various human rights struggles in Louisville, working for public school desegregation, open housing, public accommodation, and against the resegregation of public schools. This strong, independent man possessed the ability to disagree without loss of respect, abided by democratic principals and was persistent in pursuing the actions he believed to be in the best interest of the black community. On this day, we pay homage to a man to whom we all owe a debt of gratitude. Both the state of Kentucky and this great nation are better because Mr. Johnson came this way. **Legislative Citation No. 26** was adopted without objection.

On the roll call to show co-sponsors of **Legislative Citation No. 26**--J. Adams, R. Adams, Adkins, Alexander, Allen,

A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, Burch, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Lindsay, Long, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stein, Stewart, Stumbo, Thomas, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman.

Representative Gooch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 28**. Agreed.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory of Verna Sadler Powell who passed away on October 9, 1997. She was the devoted wife of Donald G. Powell, cherished mother of Jenny Sullivan, dearest sister of Alta Sadler and adored grandmother of Jason Sullivan. Verna Powell also was a faithful member of the First United Methodist Church and a life-long member of Veterans of Foreign Wars Post 5484 Auxiliary. The entire membership of the Kentucky House of Representatives joins with Representative Jim Gooch, Jr. in paying tribute to this fine Kentucky citizen and does hereby adjourn this day in loving memory of Verna Sadler Powell. **Legislative Citation No. 28** was adopted without objection.

Floor Amendments

Floor Amendment No. 69 to the House Committee Subsitute to **SB 1**, by Representative Riner:

On page 3, line 21, By deleting "***Medicare supplement,***", and

On page 5, in between lines 24 and 25, By inserting the following:

"***(20)"Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the United States Social Security Act as amended or superseded***

"***(21) "Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations other than a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. sec. 1395 et seq.) or an issued policy under a demonstration project specified in 42 U.S.C. sec. 1395(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. The term does not include:***

(a) A policy or contract of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) A policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association:

1. Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

2. Has been maintained in good faith for purposes other than obtaining insurance; and

3. Has been in existence for at least two (2) years prior to the date of its initial offering of the policy or plan to its members.

On page 5, line 25, By deleting "***(20)***" and By inserting "***(22)***" in lieu thereof; and

On page 5, line 27, By deleting "***(21)***" and By inserting "***(23)***" in lieu thereof; and

On page 6, line 3, By deleting "***(22)***" and By inserting "***(24)***" in lieu thereof; and

On page 6, line 6, By deleting "***(23)***" and By inserting "***(25)***" in lieu thereof; and

On page 6, line 14, By deleting "***(24)***" and By inserting "***(26)***" in lieu thereof; and

On page 6, line 18, By deleting "***(25)***" and By inserting "***(27)***" in lieu thereof; and

On page 6, line 21, By deleting "***(26)***" and By inserting "***(28)***" in lieu thereof; and

On page 6, line 26, By deleting "***(27)***" and By inserting "***(29)***" in lieu thereof; and

On page 12, line 4, after the word "***sell.***", By inserting the following: "***, including Medicare supplement policies***".

Floor Amendment No. 70 to the House Committee Subsitute to **SB 1**, by Representative Riner:

On page 5, in between lines 24 and 25, By inserting the following:

"***(20) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the United States Social Security Act as amended or superseded***."; and

On page 5, line 25, By deleting "***(20)***" and By inserting "***(21)***" in lieu thereof; and

On page 5, line 27, By deleting "***(21)***" and By inserting "***(22)***" in lieu thereof; and

On page 6, line 3, By deleting "***(22)***" and By inserting "***(23)***" in lieu thereof; and

On page 6, line 6, By deleting "***(23)***" and By inserting "***(24)***" in lieu thereof; and

On page 6, line 14, By deleting "***(24)***" and By inserting "***(25)***" in lieu thereof; and

On page 6, line 18, By deleting "***(25)***" and By inserting "***(26)***" in lieu thereof; and

On page 6, line 21, By deleting "***(26)***" and By inserting "***(27)***" in lieu thereof; and

On page 6, line 26, By deleting "***(27)***" and By inserting "***(28)***" in lieu thereof.

On page 22, line 12, after the word "***area***", By inserting the following: "***, except for those individuals who are aged 50-64 and who are not eligible for Medicare, where the ratio of the highest rate factor to the lowest rate factor within a class of business for this group shall not exceed (3:1)***"; and

On page 26, line 8, after the word "***area***", By inserting the following: "***, except for those individuals who are aged 50-64 and who are not eligible for Medicare, where the ratio of the highest rate factor to the lowest rate factor within a class of business for this age group shall not exceed (3:1)***".

Announcements

The following meeting was announced:

Majority Caucus, Room 149, upon adjournment, October 13, 1997

The following meetings were canceled:

Elections Task Force, October 13, 1997

Jefferson County Delegation, October 13, 1997

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., October 14, 1997.

On the roll call the vote was **Yeas 86**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Burch, De. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Yonts, Zimmerman. **Nays 11**--Allen, Dw. Butler, Crall, Crimm, Deskins, Heleringer, Hoover, Lile, Maricle, Riggs, Stewart.

The motion to adjourn was adopted.

TUESDAY, OCTOBER 14, 1997

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. John Callaway, Presbytery of Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of October 13, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 16, by Representatives Riner, P. Clark, Dw. Butler: A RESOLUTION commending and encouraging partnerships between public, private, and home schools to enrich educational opportunities for all Kentucky students.

Orders of the Day

SB 1, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **SB 1**, by way of House Committee Substitute as amended, be passed.

Representative DeWeese moved the adoption of Floor Amendment No. 60 to the House Committee Substitute to **SB 1**.

In response to an inquiry as to whether Floor Amendment No. 60 was proper, the Speaker quoted Mason's Manual, Section 401, paragraph 4 which states that an amendment identical with one previously decided on the same bill is not in order.

Representative Stumbo moved that the rules be suspended to allow a vote on Floor Amendment No. 60 to the House Committee Substitute to **SB 1**.

On the roll call to suspend the rules to allow a vote on Floor Amendment No. 60 to the House Committee Substitute to **SB 1** the vote was **Yeas 71**--J. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Burch, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Cox, Crall, Crenshaw, Crimm, Damron, Deskins, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Lovell, Maricle, Marzian, Mason, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Richards, Riner, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Wilkey, Zimmerman. **Nays 22**--J. Arnold, Bratcher, Brown, De. Butler, L. Clark, Collins, Colter, Curd, Gooch, Hatcher, Hogancamp, Kerr, Marcotte, McKee, Pope, Rasche, Riggs, Scott, Stine, Walton, Worthington, Yonts. The motion to suspended the rules to allow a vote on Floor Amendment No. 60 to the House Committee Substitute to **SB 1** was adopted.

Representative Stumbo moved the adoption of Floor Amendment No. 60 to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 60 to the House Committee Substitute to **SB 1** the vote was **Yeas 51**--Adkins, Alexander, Allen, Anderson, Bowling, Brandstetter, Bratcher, Burch, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Crenshaw, Damron, Deskins, DeWeese, Gee, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Hoover, Jenkins, Johns, Lee, Lile, Lovell, Maricle, Marzian, Mason, Moberly, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Ratliff, Reinhardt, Riner, Simpson, Stacy, Stein, Stewart, Stumbo, Turner, Vincent, Wayne, Zimmerman. **Nays 49**--J. Adams, R. Adams, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brown, Bruce, De. Butler, Callahan, L. Clark, Collins, Colter, Cox, Crall, Crimm, Curd, Ford, Geveden, Gooch, Hatcher, Haydon, Hogancamp, Horlander, Jordan, Kerr, Lindsay, Long, Marcotte, McKee, Miniard, Murgatroyd, Pope, Rader, Rasche, Richards, Riggs, Scott, Siler, Sims, Stine, Thomas, Treesh, Walton, Weaver, Wilkey, Worthington, Yonts. Floor Amendment No. 60 to the House Committee Substitute to **SB 1** was adopted.

Representative Gray moved the adoption of Floor Amendment No. 59 to the House Committee Substitute to **SB 1**.

Representative Lindsay inquired if Floor Amendment No. 59 to the House Committee Substitute to **SB 1** was identical to a Floor Amendment to the House Committee Substitute to **SB 1** previously rejected. The Speaker ruled that Floor Amendment No. 59 to the House Committee Substitute to **SB 1** was not identical to a Floor Amendment to the House Committee Substitute to **SB 1** previously rejected.

On the roll call to adopt Floor Amendment No. 59 to the House Committee Substitute to **SB 1** the vote was **Yeas 45**--J. Adams, Adkins, Alexander, Anderson, Bowling, Bratcher, Brown, Burch, L. Clark, P. Clark, Collins, Crenshaw, Damron, Deskins, Gee, Geveden, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Lile, Marzian, Mason, McKee, Nesler, Polston, Pope, Ratliff, Richards, Riner, Siler, Stacy, Stewart, Stumbo, Thomas, Turner, Vincent, Wayne, Wilkey. **Nays 48**--R. Adams, Allen, Ballard, Barrows, Baugh, Brandstetter, Bruce, De. Butler, Dw. Butler, Cave, J. Clarke, Coleman, Colter, Cox, Crall, Crimm, Curd, DeWeese, Ford, Gooch, Haydon, Hoover, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Maricle, Miniard, Moberly, Murgatroyd, Napier, Nunn, Palumbo, Rader, Rasche, Reinhardt, Riggs, Scott, Simpson, Stine, Treesh, Walton, Weaver, Worthington, Yonts, Zimmerman. Floor Amendment No. 59 to the House Committee Substitute to **SB 1** was rejected.

Representative Long moved that the rules be suspended to reconsider the vote on Floor Amendment No. 1 to the House Committee Substitute to **SB 1** which was previously rejected.

On the roll call on the motion to suspend the rules to reconsider the vote by which Floor Amendment No. 1 to the House Committee Substitute to **SB 1** was rejected the vote was **Yeas 69**--J. Adams, R. Adams, Adkins, Allen, Anderson, A. Arnold, Baugh, Brandstetter, Brown, Burch, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Cox, Crall, Crimm, Curd, Damron, Deskins, DeWeese, Geveden, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lile, Long, Lovell, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Nesler, Nunn, Palumbo, Polston, Rader, Ratliff, Richards, Riggs, Scott, Simpson, Sims, Stein, Stine, Thomas, Treesh, Vincent, Walton, Wayne, Wilkey, Zimmerman. **Nays 22**--Alexander, Ballard, Barrows, Bowling, Bratcher, De. Butler, Dw. Butler, Crenshaw, Ford, Gooch, Lindsay, Napier, Newsome, Pope, Riner, Siler, Stacy, Stewart, Stumbo, Turner, Weaver, Yonts. The motion to suspend the rules to reconsider the vote by which Floor Amendment No. 1 to the House Committee Substitute to **SB 1** was rejected was adopted.

On the roll call to adopt Floor Amendment No. 1 to the House Committee Substitute to **SB 1** the vote was **Yeas 48**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Baugh, Brandstetter, Brown, Burch, Cave, P. Clark, J. Clarke, Coleman, Cox, Crall, Curd, Geveden, D. Graham, Hoffman, Hogancamp, Hoover, Horlander, Lee, Lile, Lindsay, Long, Lovell, Maricle, Marzian, Mason, Miniard, Moberly, Nesler, Palumbo, Reinhardt, Riggs, Scott, Simpson, Sims, Stein, Stine, Treesh, Vincent, Walton, Wayne, Weaver. **Nays 47**--Ballard, Barrows, Bowling, Bratcher, Bruce, De. Butler, Dw. Butler, Callahan, L. Clark, Collins, Colter, Crenshaw, Crimm, Deskins, Ford, Gee, Gooch, G. Graham, Gray, Hatcher, Haydon, Heleringer, Jenkins, Johns, Jordan, Marcotte, Murgatroyd, Napier, Newsome, Nunn, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riner, Siler, Stacy, Stewart, Stumbo, Thomas, Turner, Wilkey, Worthington, Yonts, Zimmerman. Floor Amendment No. 1 to the House Committee Substitute to **SB 1** was adopted.

Representative Crall moved that the rules be suspended to reconsider a Floor Amendment.

The Speaker recognized a member for a privileged motion. Representative Lindsay moved that the debate on **SB 1**, with House Committee Substitute and Floor Amendments attached thereto, be limited to two hours.

On the roll call to limit the debate to two hours on **SB 1**, with House Committee Substitute and Floor Amendments attached thereto, the vote was **Yeas 47**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Brown, Bruce, Burch, De. Butler, Callahan, L. Clark, P. Clark, Colter, Crenshaw, Curd, Damron, Geveden, Gooch, Horlander, Jenkins, Jordan, Kerr, Lindsay, Marcotte, Maricle, Marzian, Nesler, Newsome, Palumbo, Pope, Rader, Rasche, Riggs, Scott, Simpson, Sims, Stacy, Stumbo, Thomas, Wayne, Weaver, Wilkey, Yonts. **Nays 49**--Allen, Anderson, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, J. Clarke, Coleman, Collins, Cox, Crall, Crimm, Deskins, DeWeese, Ford, Gee, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoover, Johns, Lee, Lile, Long, Lovell, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nunn, Polston, Ratliff, Reinhardt, Richards, Riner, Siler, Stein, Stewart, Stine, Treesh, Turner, Vincent, Walton, Zimmerman. The motion to limit the debate on **SB 1**, with House Committee Substitute and Floor Amendments attached thereto, to two hours was rejected.

Representative Crall moved that the rules be suspended to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1**.

On the roll call to suspend the rules to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1** the vote was **Yeas 50**--J. Adams, Allen, Anderson, A. Arnold, J. Arnold, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, P. Clark, Coleman, Colter, Cox, Crall, Crimm, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, Hatcher, Heleringer, Hogancamp, Kerr, Lile, Lovell, Marcotte, Maricle, Miniard, Murgatroyd, Napier, Nunn, Polston, Rader, Ratliff, Reinhardt, Riggs, Siler, Sims, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Walton, Zimmerman. **Nays 36**--R. Adams, Adkins, Alexander, Ballard, Barrows, Bowling, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Collins, G. Graham, Gray, Haydon, Horlander, Jenkins, Johns, Jordan, Lee, Lindsay, Long, Marzian, Mason, McKee, Newsome, Palumbo, Rasche, Richards, Riner,

Stacy, Stein, Stumbo, Wayne, Weaver, Yonts. The motion to suspend the rules to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1** was rejected.

Representative Mason moved the adoption of Floor Amendment No. 68 to the House Committee Substitute to **SB 1**. Representative Gooch inquired whether Floor Amendment No. 68 was germane to the House Committee Substitute to **SB 1**. The Speaker ruled that Floor Amendment No. 68 was germane to the House Committee Substitute to **SB 1**.

On the roll call to adopt Floor Amendment No. 68 to the House Committee Substitute to **SB 1** the vote was **Yeas 50**--J. Adams, Adkins, Alexander, A. Arnold, Barrows, Bowling, Brown, Burch, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Damron, Deskins, DeWeese, Geveden, D. Graham, G. Graham, Gray, Hatcher, Heleringer, Hoffman, Horlander, Johns, Jordan, Lee, Long, Lovell, Marzian, Mason, Moberly, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Ratliff, Riner, Siler, Stacy, Stein, Stewart, Stumbo, Turner, Wayne, Wilkey. **Nays 28**--R. Adams, Allen, J. Arnold, Ballard, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, Cox, Crall, Crimm, Ford, Gee, Gooch, Haydon, Hogancamp, Hoover, Kerr, McKee, Rader, Rasche, Richards, Treesh, Vincent, Walton, Weaver, Yonts. Floor Amendment No. 68 to the House Committee Substitute to **SB 1** was adopted.

Representative Mason moved the adoption of Floor Amendment No. 42 to the House Committee Substitute to **SB 1**

On the roll call to adopt Floor Amendment No. 42 to the House Committee Substitute to **SB 1** the vote was **Yeas 55**--Adkins, Alexander, A. Arnold, Ballard, Bowling, Brown, Burch, P. Clark, J. Clarke, Coleman, Collins, Colter, Crenshaw, Curd, Deskins, DeWeese, Geveden, D. Graham, G. Graham, Gray, Heleringer, Hoffman, Horlander, Jenkins, Johns, Jordan, Lee, Lile, Lindsay, Long, Lovell, Marzian, Mason, McKee, Miniard, Moberly, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Ratliff, Reinhardt, Richards, Riner, Siler, Stacy, Stein, Stewart, Stine, Stumbo, Turner, Vincent, Wayne. **Nays 33**--J. Adams, R. Adams, Allen, Baugh, Brandstetter, Bratcher, De. Butler, Dw. Butler, Callahan, Cave, L. Clark, Cox, Crall, Crimm, Ford, Gee, Gooch, Hatcher, Haydon, Hoover, Kerr, Marcotte, Maricle, Murgatroyd, Rader, Rasche, Simpson, Sims, Thomas, Walton, Weaver, Wilkey, Yonts. Floor Amendment No. 42 to the House Committee Substitute to **SB 1** was adopted.

Representative Mason moved the adoption of Floor Amendment No. 62 to the House Committee Substitute to **SB 1**

On the roll call to adopt Floor Amendment No. 62 to the House Committee Substitute to **SB 1** the vote was **Yeas 39**--Adkins, Alexander, Bowling, Brown, Burch, P. Clark, J. Clarke, Coleman, Collins, Crenshaw, Curd, Deskins, DeWeese, Geveden, D. Graham, G. Graham, Gray, Hatcher, Hoffman, Jenkins, Jordan, Marzian, Mason, McKee, Miniard, Newsome, Nunn, Palumbo, Polston, Pope, Ratliff, Riner, Stacy, Stein, Stewart, Stumbo, Vincent, Wayne, Zimmerman. **Nays 45**--J. Adams, R. Adams, Anderson, Ballard, Baugh, Brandstetter, Bruce, Dw. Butler, Callahan, Cave, L. Clark, Colter, Cox, Crall, Crimm, Ford, Gooch, Haydon, Heleringer, Hoover, Horlander, Johns, Kerr, Lee, Lindsay, Long, Marcotte, Maricle, Moberly, Murgatroyd, Nesler, Rasche, Reinhardt, Richards, Riggs, Scott, Simpson, Sims, Stine, Thomas, Treesh, Walton, Weaver, Wilkey, Yonts. Floor Amendment No. 62 to the House Committee Substitute to **SB 1** was rejected.

Representative Mason moved the adoption of Floor Amendment No. 67 to the House Committee Substitute to **SB 1**

On the roll call to adopt Floor Amendment No. 67 to the House Committee Substitute to **SB 1** the vote was On the roll call the vote was **Yeas 77**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, Ballard, Baugh, Bowling, Brandstetter, Bruce, Burch, Dw. Butler, Cave, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hoover, Horlander, Jenkins, Johns, Lee, Long, Lovell, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Treesh, Vincent, Wayne, Weaver, Yonts, Zimmerman. **Nays 9**--Bratcher, Brown, De. Butler, Callahan, L. Clark, Jordan, Lile, Simpson, Wilkey. Floor Amendment No. 67 to the House Committee Substitute to **SB 1** was adopted.

Representative Hoover moved that the rules be suspended to reconsider the vote to suspend the rules to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1**.

On the roll call to suspend the rules to reconsider the vote to suspend the rules to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1** the vote was **Yeas 56**--J. Adams, Allen, Anderson, A. Arnold, Ballard, Baugh, Bowling, Brandstetter, Bratcher, Dw. Butler, Cave, P. Clark, Coleman, Colter, Cox, Crimm, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Johns, Kerr, Lile, Marcotte, Maricle, Miniard, Murgatroyd, Napier, Nunn, Polston, Rader, Ratliff, Reinhardt, Riggs, Riner, Sims, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Walton, Wilkey, Zimmerman. **Nays 33**--Adkins, Alexander, Brown, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Collins, Crenshaw, Curd, Gray, Horlander, Jenkins, Jordan, Lee, Long, Lovell, Marzian, Mason, McKee, Moberly, Nesler, Palumbo, Pope, Scott, Simpson, Stacy, Stein, Stumbo, Wayne, Weaver, Yonts. The motion to suspend the rules to reconsider the vote to suspend the rules to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1** was adopted.

Representative Hoover moved that the rules be suspended to consider Floor Amendment No. 65 to the House Committee

Substitute to **SB 1**.

On the roll call to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1** the vote was **Yeas 49**--Allen, Anderson, A. Arnold, Ballard, Baugh, Brandstetter, Bratcher, Dw. Butler, Cave, P. Clark, Coleman, Colter, Cox, Crall, Crimm, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, G. Graham, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Kerr, Lile, Marcotte, Maricle, Miniard, Murgatroyd, Napier, Nunn, Polston, Rader, Ratliff, Reinhardt, Riggs, Riner, Stewart, Stine, Thomas, Treesh, Turner, Vincent, Walton, Zimmerman. **Nays 42**--J. Adams, Adkins, Alexander, Bowling, Brown, Burch, De. Butler, Callahan, L. Clark, J. Clarke, Collins, Crenshaw, Curd, D. Graham, Gray, Hatcher, Horlander, Jenkins, Johns, Jordan, Lee, Long, Lovell, Marzian, Mason, McKee, Moberly, Nesler, Newsome, Palumbo, Pope, Richards, Scott, Siler, Simpson, Stacy, Stein, Stumbo, Wayne, Weaver, Wilkey, Yonts. The motion to suspend the rules to consider Floor Amendment No. 65 to the House Committee Substitute to **SB 1** was rejected.

Representative Gooch moved that **SB 1**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 70, Nays 30. (See October 14, 1997 roll call on **SB 1** - Appendix)

SB 1, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **SB 1**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Coleman moved the adoption of the following **Legislative Citation No. 31**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends sympathy upon the passing of Shilohs (Star) Rose May 9, 1991 ~ October 8, 1997 who was the cherished companion of Jackson Coleman. During her lifetime, this extraordinarily protective creature offered faithful companionship and loyalty to Jackson. She will forever be remembered in his heart as a devoted friend and adored family member. Inasmuch as Shilohs Rose has forever altered for the better the life of this young man and left him with innumerable cherished memories, she will be mourned both for her unswerving devotion and for the grace of her guardianship. This distinguished body joins with Representative Jack Coleman in mourning the loss of his son's loyal friend, and with Jackson Coleman in saying to "Star," "Thanks for the ride." **Legislative Citation No. 31** was adopted without objection.

Representative Hoover moved the adoption of the following **Legislative Citation No. 29**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Melinda Smith Russell County High School for outstanding participation in the 1997 Girl's State Golf Tournament held at the Arlington Country Club in Richmond, Kentucky. Inasmuch as this outstanding young Kentuckian has demonstrated remarkable hard work and dedication to her sport, she is to be commended for her stellar performance in said competition. This prestigious body is pleased to join with Representative Jeffrey Hoover in congratulating Melinda Smith for setting and attaining a high standard of sportsmanship and in extending to her best wishes for continued success in the future. **Legislative Citation No. 29** was adopted without objection.

Representative Hoover moved the adoption of the following **Legislative Citation No. 30**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Michael S. Dunlap Russell County High School for outstanding participation in the 1997 Boy's State Golf Tournament held at the Gibson Bay Golf Course in Richmond, Kentucky, which resulted in his tying for third place. Inasmuch as this outstanding young Kentuckian has demonstrated remarkable hard work and dedication to his sport, he is to be commended for his stellar performance in said competition. This prestigious body is pleased to join with Representative Jeffrey Hoover in congratulating Michael Dunlap for setting and attaining a high standard of sportsmanship and in extending to him best wishes for continued success in the future. **Legislative Citation No. 30** was adopted without objection.

Representative Barrows moved the adoption of the following **HR 15**:

HR 15, A RESOLUTION relating to group health insurance coverage of state employees.

WHEREAS, the open enrollment period during which state employees must select health care coverage for calendar year 1998 began on October 6, 1997, and is scheduled to expire on October 17; and

WHEREAS, the health care coverage rates for the state employee group have not yet been finalized, making it impossible for employees and their families to make informed choices about their coverage; and

WHEREAS, it is essential that the state employee group withdraw from the Kentucky Health Purchasing Alliance as expeditiously as possible in order to be able to negotiate health insurance rates for calendar year 1999;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does encourage the Personnel Department to extend the open enrollment period for state employee group health care coverage through November 7, 1997.

Section 2. The House of Representatives does further encourage the Personnel Department to withdraw the state employee group from the Kentucky Health Purchasing Alliance as soon as possible.

Section 3. The Clerk of the House shall forward a copy of this Resolution to Commissioner of Personnel Robert S. Peters, 200 Fair Oaks, Suite 516, Frankfort, Kentucky 40601.

There being no objection **HR 15** was adopted.

Representative Riner moved the adoption of the following **HR 16**:

HR 16, A RESOLUTION commending and encouraging partnerships between public, private, and home schools to enrich educational opportunities for all Kentucky students.

WHEREAS, an educated citizenry benefits all Kentuckians; and

WHEREAS, the Commonwealth's public, private, and home schools make an invaluable contribution by educating the children and youth of the state; and

WHEREAS, for years, rural public, private, and home schools have participated in partnerships which enriched the education of the students they serve by providing access to broader curriculum offerings, J.R.O.T.C., and extracurricular experiences; and

WHEREAS, today some of the Commonwealth's largest school systems, including the Jefferson County Public Schools, have recognized the benefit of offering students enrolled in private and home schools the opportunity to take additional classes, including J.R.O.T.C., classes that these students would not otherwise be able to take;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The public school superintendents, who have taken the initiative to open new academic and extracurricular services for students attending private and home schools in their communities, are commended for their efforts to provide this largely unserved student population access to additional educational opportunities. All public schools in the Commonwealth are encouraged to pursue and expand efforts such as these to better serve all students in their communities.

Section 2. The Clerk of the House of Representatives is directed to send a copy of this resolution, along with a letter from the sponsor and co-sponsors who are presently involved in home schooling their children, to the Superintendents of Kentucky's public schools.

There being no objection **HR 16** was adopted.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that his vote be changed from "nay" to "yea" on Floor Amendment No. 42 to the House Committee Substitute to **SB 1**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that his vote be changed from "nay" to "yea" on **SB 1**. Agreed.

Recess

Representative Stumbo moved to recess until 2:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Message received on **SB 1**: The Senate has refused to concur in the House Committee Substitute to **SB 1** and House Amendments and respectfully returns it with the request that this Honorable Body recede from the Committee Substitute and Amendments. (Time: 2:05 p.m.) Representative Stumbo moved that the House refuse to recede from the House Committee Substitute and Floor Amendments. Agreed.

The Committee on Committee has met and appointed the following members to serve on a Conference Committee to **SB 1**: Representatives Richards, Chair, Stumbo, Barrows, Gooch, DeWeese, Crall and Hoover.

Recess

Representative Stumbo moved that the House recess for five minutes. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Stumbo moved that no further business be conducted on this day except for Conference Committee Reports and appointment of Conference Committee members. Agreed. Representative Stumbo moved that when the House does adjourn on this day, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn on this day, it does so until 12 noon on Wednesday, October 15, 1997. Agreed.

Recess

Representative Stumbo moved to recess. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

A Conference Committee Report was filed on **SB 1**. Representative Stumbo moved the adoption of the Conference Committee Report on **SB 1** requesting a Free Conference Committee. Agreed. The Free Conference Committee will consist of the same members as the Conference Committee.

Recess

Representative Stumbo moved to recess. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Announcements

The following meetings were announced:

Administrative Regulations Review, upon adjournment of Senate, October 14, 1997.

Personal Service Contracts, 10:00 a.m. or upon Senate recess, October 15, 1997.

The following meeting was canceled:

Labor and Industry for October, 1997.

Adjournment

Representative moved that the House adjourn until 12 noon on October 15, 1997. The motion that the House adjourn until 12 Noon on October 15, 1997 was adopted by voice vote.

WEDNESDAY, OCTOBER 15, 1997

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of October 14, 1997, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Recess

Representative Stumbo moved that the House recess until 3:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications

Representative Bratcher moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 17, by Representatives Bratcher, P. Clark, and Lile: A RESOLUTION urging the Jefferson County Judge/Executive and the Jefferson County Fiscal Court Commissioners to release control of the Playtorium to the Fairdale community.

Representative Bratcher moved the adoption of the following **HR 17**:

HR 17, A RESOLUTION urging the Jefferson County Judge/Executive and the Jefferson County Fiscal Court Commissioners to release control of the Playtorium to the Fairdale community.

WHEREAS, in 1947, Jefferson County furnished $27,500 and Fairdale citizens matched this amount with $10,000 and $17,500 in labor to build the Playtorium; and

WHEREAS, the Playtorium has been in continuous use by the entire Fairdale community as a community center since its dedication on May 28, 1949, to 12 local soldiers who died in World War II; and

WHEREAS, the Playtorium has always been maintained by the Fairdale Community Club and the Fairdale community with proceeds from the Annual Fairdale Fairs; and

WHEREAS, the Playtorium stands as a monument to the wealth of enthusiasm and community pride of the residents of Fairdale; and

WHEREAS, the growing Fairdale community has a desperate need for a youth-oriented community center to provide programs to prevent crimes, drugs and gang-related problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges the Jefferson County Judge/Executive and the Jefferson County Fiscal Court Commissioners to release control of the Playtorium to the Fairdale community.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable David Armstrong, Jefferson County Judge/Executive, 527 West Jefferson Street, Louisville, Kentucky 40202; the Honorable Russ Maple, Commissioner, Jefferson County Fiscal Court, 527 West Jefferson Street, Suite 200, Louisville, Kentucky 40202; the Honorable Irv Maze, Commissioner, Jefferson County Fiscal Court, 527 West Jefferson Street, Suite 200, Louisville, Kentucky 40202; and the Honorable Darryl Owens, Commissioner, Jefferson County Fiscal Court, 527 West Jefferson Street, Suite 200, Louisville, Kentucky 40202.

There being no objection **HR 17** was adopted.

Representative Colter moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Colter moved the adoption of the following **Legislative Citation No. 32**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to Representative William U. Scott as he celebrates his 50th birthday on October 16, 1997. This august body joins with Representative Barbara White Colter in extending heartfelt birthday greetings to our respected colleague who, "as much as he loves Mountain Dew, has always brought his own." Representative Scott brings to his membership in this esteemed body many valuable attributes he acquired early in life. A 1965 graduate of Lebanon High School and active in athletics, he was described as "one of those always giving 110%." He was co-captain of the football team and a member of the track team. When he graduated from Eastern Kentucky University in 1969, he ranked third among 1,304 students in the ROTC. His noteworthy ability to remain calm under pressure has been attributed to his experience in the U.S. Marine Corps where he was Commanding Officer of an artillery battery in the Vietnam War. As a Marine, he was also selected to attend nuclear weapons school in San Diego, California, where he earned top secret clearance. Representative Scott is a recipient of both the Young Farmer of the Year Award from the Lebanon Jaycees, as well as the Logger of the Year Award from the Kentucky Forestry Service. In recognition of his accomplishments in the first fifty years of his life, the entire membership is pleased to join together to extend to him our sincere congratulations and very best wishes. **Legislative Citation No. 32** was adopted without objection.

Representative P. Clark moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 18, by Representatives Hogancamp, P. Clark, Riner, Stumbo, Damron, Newsome, Maricle, Gray, Ballard, J. Arnold, Crall, Bruce, Walton, Curd, Treesh, Baugh, Reinhardt, Cox, Turner, and Stine: A RESOLUTION opposing the Biosphere Reserves designation of the Man and the Biosphere Program and urging that the proposed Biodiversity Treaty not be ratified by the United States.

Representative P. Clark moved the adoption of the following **HR 18**:

HR 18, A RESOLUTION opposing the Biosphere Reserves designation of the Man and the Biosphere Program and urging that the proposed Biodiversity Treaty not be ratified by the United States.

WHEREAS, the United Nations has promoted a Biosphere Program throughout the world; and

WHEREAS, the Biosphere Program threatens to place millions of acres of land under the control of United Nations via agreements and/or executive orders; and

WHEREAS, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has created a worldwide system of 337 Biosphere Reserves in 85 nations; and

WHEREAS, 47 United Nations-designated Biosphere Reserves are within the sovereign borders of the United States, and two United Nations-designated Biosphere Reserves are within the Commonwealth of Kentucky; and

WHEREAS, neither the General Assembly of the Commonwealth of Kentucky nor the Congress of the United States has considered, debated, or approved such designations; and

WHEREAS, such designations require strict land use management procedures as are set forth in the 1994 Strategic Plan for the United States Man and the Biosphere Program, as published by the United States State Department, and further described in the Global Biodiversity Assessment, published by the United Nations Environment Program, expressly for the Conferences of the Parties to the Convention on Biological Diversity; and

WHEREAS, Biosphere Reserves are, by definition, designed to continually expand each of the three zones: core protected zone, buffer zone, and zone of cooperation; and

WHEREAS, Biosphere Reserves are expected to be the nucleus of the system of protected areas required by Article 8 of the Convention on Biological Diversity as expressed in the minutes of the first meeting of the Conference of the Parties; and

WHEREAS, no landowner within reach or potential reach of the Biosphere Reserves has input or recourse to land use management policies of UNESCO or the Conference of the Parties to the Convention on Biological Diversity; and

WHEREAS, no body of elected officials, whether local, state, or federal, has input, recourse, or veto power over such land use management policies that may be prescribed by either UNESCO or the Conference of the Parties to the Convention on Biological Diversity; and

WHEREAS, even though the Convention on Biological Diversity has not been ratified by the United States Senate, the very presence of United Nations Biosphere Reserves on American soil demonstrates the compliance with an international treaty that has not been ratified; and

WHEREAS, the use of land in biosphere areas for ordinary commercial or agriculture purposes may be severely restricted or eliminated; and

WHEREAS, the Mammoth Cave area and the Land Between the Lakes area have already been designated as Biosphere Reserves; and

WHEREAS, none of the current areas included within the Biosphere Program in Kentucky have been included at the request of or with the consent of the General Assembly of the Commonwealth of Kentucky; and

WHEREAS, the General Assembly does not believe that a request from the National Park Service or a tourist and convention service should be adequate to subject land in Kentucky to the control of the United Nations or any other foreign parties; and

WHEREAS, the areas encompassed by these reserves include not only public, but private, lands; and

WHEREAS, the placing of environmental or other restrictions upon the use of private lands has been held by a number of recent United States Supreme Court decisions to constitute a taking of the land for public purposes; and

WHEREAS, the proposed Biodiversity Treaty, if ratified by the United States, would ultimately lead to the reality that Kentuckians could not use their private and public lands in the manner to which they have been accustomed; and

WHEREAS, there are no proposals to purchase the private lands by either the United States or the United Nations; and

WHEREAS, the restrictions contemplated together with the outside control of the land encompassed by a Biosphere Reserve constitutes an unlawful taking of that land in violation of the Constitution of the United States, to wit:

Article I, Section 8, Clause 17, before any state lands can be purchased, the consent of the state legislature and not the state executive branch, must be obtained.

Article IV, Section 3, Clause 2, we note that, "[N]othing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

Article IV, Section 4, we note that, "The United States shall guarantee to every State in this Union a Republican Form of Government."

Amendment V of the Constitution of the United States, "nor [shall any person] be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."; and

WHEREAS, the virtual ceding of these lands to the United Nations leaves the residents who own the land, local governments, and the Commonwealth of Kentucky without any legitimate form for redress of grievances for input into any decision-making process relating to the Biosphere Reserve; and

WHEREAS, under Article VI of the Constitution of the United States, this treaty would be given equal footing with the Constitution of the United States, thus effectively precluding any legal means of redress; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky does not wish to have portions of its land area controlled by foreign minions over which it has no control and that are not subject to its laws;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly of the Commonwealth of Kentucky is unalterably opposed to the inclusion of any land within the borders of the Commonwealth within the purview of the Biodiversity Treaty or any biodiversity program without the express consent of the General Assembly of the Commonwealth of Kentucky, as provided by the Constitution of the United States and the Constitution of Kentucky.

Section 2. The General Assembly urges the members of the Congress of the United States, and especially the Kentucky delegation to the Congress of the United States, to oppose ratification of this treaty and the inclusion of any land within the Commonwealth of Kentucky in any biosphere program of the United Nations.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to the Honorable Bill Clinton, President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Madeleine K. Albright, 2201 "C" Street, N.W., Washington, D.C. 20520; the Honorable Wendell H. Ford, 173A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Mitch McConnell, 361A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Ed Whitfield, 236 Cannon House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 412 Cannon House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 1004 Longworth Office Building, Washington, D.C. 20515; the Honorable Jim Bunning, 2437 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2468 Rayburn Office Building, Washington, D.C. 20515; and the Honorable Scotty Baesler, 113 Cannon House Office Building, Washington, D.C. 20515.

There being no objection **HR 18** was adopted.

Representative Colter moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Colter moved the adoption of the following **Legislative Citation No. 33**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Katie Lewis and extends sincerest expressions of sympathy to her devoted son, the Reverend Billy Joe Lewis, for his immense loss. Katie Lewis lived a full and exemplary life for ninety-four years and will long be remembered and cherished by those whose fortune it was to have known her. The members of this august body join this day with Representative Barbara White

Colter in honoring the memory of this outstanding Kentucky citizen. **Legislative Citation No. 33** was adopted without objection.

Recess

Representative Stumbo moved that the House recess until 6:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (Continued)

Representative Callahan announced that a briefing on the Free Conference Committee Report would be held in Room 149 twenty minutes upon recess.

Representative Gray moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

HR 19, by Representative Gray: A RESOLUTION adjourning the House of Representatives in memory and honor of Coy Creason, former mayor of Benton, Kentucky.

HR 20, by Representative Gray: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William Joseph "Toad" Brien, former Circuit Court Clerk of Marshall County.

Representative Gray moved the adoption of the following **HR 19**:

HR 19, A RESOLUTION adjourning the House of Representatives in memory and honor of Coy Creason, former mayor of Benton, Kentucky.

WHEREAS, Coy Creason, of Marshall County, Kentucky, the dedicated former mayor of Benton, took his final rest Monday, June 30, 1997, at 67 years of age; and

WHEREAS, Coy Creason distinguished himself in the community by setting the city of Benton on a course for growth and prosperity through outstanding achievements, including construction of a new city hall, a new fire department building, a new National Guard Armory, and a new water treatment system; and

WHEREAS, Coy Creason was a member of the 1948 Brewers High School boys' basketball championship team and played varsity basketball at Memphis State University on a basketball scholarship; and

WHEREAS, Coy Creason was a member of First United Methodist Church in Benton; and

WHEREAS, Coy Creason was the devoted husband of Marilyn Chester Creason and the dedicated father of Kerry Creason, Janesa Martinez, Gina Swacker, and Keela Jones; and

WHEREAS, Coy Creason lived an exemplary life in the community for which he won the "Citizen of the Year" award from the Marshall County Chamber of Commerce;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, it does so in commemoration of Coy Creason for his lifetime of contributions to the entire Commonwealth of Kentucky, through excellence in public service.

Section 2. That the Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to the Honorable J.R. Gray, 3188 Mayfield Highway, Benton, Kentucky 42025.

There being no objection **HR 19** was adopted.

Representative Gray moved the adoption of the following **HR 20**:

HR 20, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William Joseph "Toad" Brien, former Circuit Court Clerk of Marshall County.

With deepest respect, we pay homage and tribute to Toad Brien.

WHEREAS, Toad Brien, a native and long-time resident of Marshall County, Kentucky, departed this life on September 9, 1997, at seventy-eight years of age; and

WHEREAS, Toad Brien will be remembered as a dedicated, people-friendly, and accommodating public servant, holding an elected office in Marshall County longer than any other person and serving more than 40 years as either county clerk, circuit clerk, or Benton City Councilman; and

WHEREAS, Toad Brien was the adored son of William J. Brien and Zula Butler Brien, who preceded him in death; and

WHEREAS, Toad Brien was survived by his loving wife, Betty Brien; a daughter, Charlotte Wilzbach; a son, William A.

Brien; a sister, Mary Ruth Jaco; a brother, Carter Brien; and two grandchildren; and

WHEREAS, Toad Brien attended Gilbertsville High School and Murray State College; and

WHEREAS, Toad Brien was a member of the Briensburg Baptist Church, the board of directors of the Bank of Marshall County, and was president of the Kentucky Circuit Clerks Association; and

WHEREAS, Toad Brien, before his contribution to public service, was a restaurant owner and a school teacher; and

WHEREAS, Toad Brien bravely served his country in the United States Army during World War II; and

WHEREAS, the passing of Toad Brien has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby expresses its profound sense of sorrow upon the passing of Toad Brien, and does extends to his family its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Toad Brien.

Section 3. The clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable J.R. Gray, 3188 Mayfield Highway, Benton, Kentucky 42025.

There being no objection **HR 20** was adopted.

Recess

Representative Stumbo moved that the House recess until 8:00 p.m. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (Continued)

A Free Conference Committee Report was filed on **SB 1**.

Representative Stumbo moved that the rules be suspended to adopt the Free Conference Committee Report on **SB 1**.

On the roll call to suspend the rules to adopt the Free Conference Committee Report on **SB 1** the vote was **Yeas 49**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Barrows, Bratcher, Brown, Bruce, De. Butler, Callahan, L. Clark, J. Clarke, Collins, Curd, Deskins, Geveden, Gooch, D. Graham, G. Graham, Gray, Haydon, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Marzian, McKee, Moberly, Newsome, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Thomas, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 47**--Allen, Anderson, Baugh, Bowling, Brandstetter, Burch, Dw. Butler, Cave, P. Clark, Cox, Crall, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Hatcher, Heleringer, Hogancamp, Hoover, Horlander, Lile, Lovell, Marcotte, Maricle, Mason, Miniard, Murgatroyd, Napier, Nesler, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riner, Stein, Stewart, Stine, Stumbo, Treesh, Turner, Vincent, Walton, Zimmerman. The motion to suspend the rules to adopt the Free Conference Committee Report on **SB 1** was rejected.

Representative Crall moved that the vote on the motion to suspend the rules to consider the Free Conference Committee Report on **SB 1** be reconsidered.

On the roll call to reconsider the vote on the motion to suspend the rules to consider the Free Conference Committee Report on **SB 1** the vote was **Yeas 60**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bratcher, Bruce, De. Butler, Callahan, L. Clark, J. Clarke, Collins, Crall, Curd, Deskins, Ford, Geveden, Gooch, D. Graham, G. Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Marcotte, Marzian, McKee, Moberly, Murgatroyd, Newsome, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stine, Thomas, Treesh, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 36**--Allen, Anderson, Bowling, Brandstetter, Brown, Burch, Dw. Butler, Cave, P. Clark, Cox, Crenshaw, Damron, DeWeese, Gee, Hatcher, Heleringer, Hogancamp, Hoover, Lile, Lovell, Maricle, Mason, Miniard, Napier, Nesler, Nunn, Palumbo, Polston, Rader, Reinhardt, Riner, Stein, Stewart, Stumbo, Turner, Vincent. The motion to reconsider the vote on the motion to suspend the rules to adopt the Free Conference Committee Report on **SB 1** was adopted.

Representative Stumbo moved to suspend the rules to adopt the Free Conference Committee Report to **SB 1**.

On the roll call to suspend the rules to adopt the Free Conference Committee Report on **SB 1** the vote was **Yeas 57**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brown, Bruce, De. Butler, Callahan, L. Clark, J. Clarke, Collins, Crall, Crimm, Curd, Ford, Geveden, Gooch, D. Graham, G. Graham, Gray, Haydon, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Marcotte, Marzian, McKee, Moberly, Murgatroyd, Pope, Rasche, Richards, Riggs, Scott, Siler, Simpson, Sims, Stacy, Stine, Thomas, Treesh, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 39**--Allen, Anderson, Bowling, Brandstetter, Bratcher, Burch, Dw. Butler, Cave, P. Clark, Colter, Cox, Crenshaw, Damron, DeWeese, Gee, Heleringer, Hoffman, Hogancamp, Hoover, Lile, Lovell, Maricle, Mason, Miniard, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Rader, Ratliff, Reinhardt, Riner, Stein, Stewart, Stumbo, Turner, Vincent. The motion to suspend the rules to adopt the Free Conference Committee Report on **SB 1** was adopted.

SB 1 taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved the adoption of the following Free Conference Commmittee Report on **SB 1**. Agreed.

The Free Conference Committee on **SB 1** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of the GA Copy of **SB 1** with the following changes:

On page 4, line 18, after the period, by inserting "***The use of tobacco products alone shall not constitute a high-cost condition.***"; and

On page 4, line 24, after "***any***" by inserting "***health***"; and

On page 5, line 15, by deleting "***and***" the second time it appears in the line and inserting in lieu thereof "***or***"; and

On page 6, between lines 4 and 5, by adding the following new language:

"***(23) "Purchasing cooperative" means any voluntary collection of one hundred (100) or more individuals or organizations who band together for the purposes of purchasing health insurance. "Purchasing cooperative" does not mean either:***

(a) Any multiemployer plan, any multiple employer welfare arrangement, or any trust or other arrangement by which health insurance plans are issued to a group health plan; or

(b) Any collection of individuals or organizations organized or established by a health insurance issuer."; and

On page 6, line 5, by deleting the "***(23)***" and inserting in lieu thereof "***(24)***"; and

On page 6, line 9, by deleting the "***(24)***" and inserting in lieu thereof "***(25)***" and

On page 6, line 12, by deleting the "***(25)***" and inserting in lieu thereof "***(26)***"; and

On page 6, line 17, by deleting the "***(26)***" and inserting in lieu thereof "***(27)***"; and

On page 6, line 25, by deleting "***individual***" and inserting in lieu thereof "***employee and dependent***"; and

On page 6, line 26, by deleting "***individual***" and inserting in lieu thereof "***employee and dependent***"; and

On page 6, line 23 before the word "***Each***" by inserting "***(1)***"; and

On page 7 after line 1 but before line 2 by inserting the following:

"***(2) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be guarantee issued to all full-time employees of the employer and shall comply with the pre-existing condition provisions of Section 3 of this Act.***"; and

On page 9, line 10, after the word "***currently***", by deleting the words "***of that type***"; and

On page 11, line 6, by deleting "***and***" and inserting in lieu thereof "***or***"; and

On page 11, line 10, after the word "***plans***", by inserting the words "***in that market segment***"; and

On page 11, line 24, after the term "***KRS Chapter 212***", By deleting "***in medically***"; and

On page 11, line 25, by deleting "***underserved areas designated by the Cabinet for Human Resources***"; and

On page 11, line 26, before "***plan's***", by inserting the following words: "***department's normal charge up to the***"; and

On page 14, line 19, after "***Act***", by inserting "***through June 30, 1998,***"; and

On page 15, beginning with line 5 and ending with line 20, by deleting all new language; and

On page 15, beginning with line 5 and ending with line 20, by deleting all brackets and strikethroughs; and

On page 15, line 5 by placing an opening bracket after "(a)" and by striking through all language through the end of line 20; and

On page 15, line 21, by deleting the opening bracket before the "(c)"; and

On page 15, line 5, after the "(a)", by inserting the following new language:

"***A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing must be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed***

approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurance issuer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been approved or deemed approved under paragraph (a) of this subsection, if the commissioner determines the rates are in violation of this chapter, the commissioner shall have the authority, after a public hearing for which at least thirty (30) days' notice has been given, to withdraw approval and to order a retroactive reduction of rates to a reasonable rate including appropriate refund or future premium credit. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect."; and

On page 16, line 19, by placing an opening bracket after the "(4)" and by striking through the language on lines 19 through 22, ending with the "(5)" on line 23; and

On page 16, line 23, by placing a closing bracket after the "(5)"; and

On page 16, line 25, by deleting the "***(6)***" and inserting in lieu thereof "***(5)***"; and

On page 16, line 25, by deleting the "***(5)***" and inserting in lieu thereof "***(4)***"; and

On page 17, line 5, by deleting the "***(7)***" and by removing the brackets and strikethroughs from the "(6)"; and

On pages 17 through 19, by deleting subsections (8) and (9) of Section 8 in their entirety; and

On page 19, line 10, by deleting the "***(10)***" and removing the brackets and strikethroughs from "[~~(7)~~]"; and

On page 19, line 14, by deleting the "***(11)***" and inserting in lieu thereof "***(8)***"; and

On page 20, line 27, by deleting "***who at the time of issue had a high-cost***"; and

On page 21, line 1, by deleting "***condition***"; and

On page 21, line 5, after the word "***Act***", by deleting the period thereafter; and

On page 21, line 5, after the word "***section***", by deleting the comma thereafter and inserting an underlined period in lieu thereof; and

On page 21, line 7, after "***incurred***" by inserting "***during the first five (5) policy renewals***"; and

On page 23, line 14, after "***of***" by inserting "***high-risk***" and by deleting "***with high-cost conditions***"; and

On page 23, after line 19, by inserting:

"***(12) For the purposes of subsections (3) and (10) of this section, high-risk individuals are defined as individuals who enrolled in a modified community rated health benefit plan in the individual market and, at the time of enrollment, had a condition that would have caused the individual to be denied coverage under the insurer's underwriting guidelines in place immediately prior to July 15, 1995.***"; and

On page 29, line 24, insert after the words "***participate in***" the word "***financing***"; and

On page 29, line 26, after the word "***severity.***", by inserting the following:

"***Before establishing this list, the commissioner shall:***

(a) Receive input from medical providers and specialists that deal with high-cost conditions; and

(b) Review current medical documentation on possible high-cost conditions."; and

On page 30, between line 13 and line 14, by inserting:

"***(5) During the transition from the effective date of this Act until the date the plan begins issuing coverage, the commissioner shall contract with insurers to act on behalf of the plan and provide guaranteed-issue policies to individuals. Once the plan becomes operational, it will assume responsibility for those individuals. The insurers under contract shall collect premiums on behalf of the plan at a rate established by the commissioner, which includes provision for health status. Losses incurred in the business accepted on behalf of the plan by the insurer during the transition period shall be paid according to the terms of the contract and shall be covered by the funds of the plan.***"; and

On page 31, line 7, after the period "***.***" by inserting the following: "***The twelve (12) month waiting period shall not***

apply to dependents who had coverage under the policy of the person terminating coverage."; and

On page 34, line 5, after the word "***made***", by inserting "***. Claims may be submitted electronically***"; and

On page 36, line 23, by deleting "***automobile medical payment or liability insurance***" and inserting in lieu thereof "***basic or added reparation benefits as defined in KRS 304.39-020 or any med-pay provisions of a liability insurance policy***"; and

On page 37, line 2, after the "***.***" by adding the following sentence:

"***Nothing in this paragraph shall be interpreted to limit, delay, or otherwise affect eligibility or benefits provided under KRS Chapter 342.***"; and

On page 39, line 9, by deleting "***from earned premiums net of administrative expenses***"; and

On page 39, line 27, after "***individuals,***" by inserting "***an evaluation of the viability of a pay-or-play system,***"; and

On page 41, line 9, by deleting "***1998 shall be***"; and

On page 41, by deleting lines 10 and 11, and inserting in lieu thereof "***1999 and each calendar year thereafter shall not exceed the percentage rate used to determine the assessment in 1998.***"; and

On page 41, beginning on line 12 after the "***(3)***" and continuing to the end of line 24, by deleting all of the new text and inserting in lieu thereof the following:

"***Beginning in calendar year 1998, and every calendar year thereafter, the commissioner shall assess the insurers each calendar year based upon the percentage of health insurance premiums written during the assessment period, subject to the percentage limitation established in subsection (2) of this section.***

(4) On or before March 31 of 1999, and each March 31 thereafter, the board shall certify to the commissioner the balance of funds in the Kentucky comprehensive health insurance plan as of the December 31 preceding. If the certification indicates the plan has a deficit as defined in Section 23 of this Act, the commissioner shall impose one (1) additional assessment against the insurers based on the percentage of health insurance premiums written during the assessment period, subject to the percentage limitation established in subsection (2) of this section, provided that the total amount generated from the additional assessment in any calendar year may not exceed the amount generated from the assessment imposed under subsection (3) of this section. In no event shall the assessment required by this subsection produce an amount in excess of the projected deficit"; and

On page 42, line 4 by bracketing and striking through "(4)" and inserting "***(5)***" before "~~[(4)]~~"; and

On page 42, line 9 by deleting "***(5)***" and inserting in lieu thereof "***(6)***"; and

On page 42, line 15 by deleting "***(6)***" and inserting in lieu thereof "***(7)***"; and

On page 56, line 21, by deleting "***physician's***" and inserting in lieu thereof "***provider's***"; and

On page 57, line 16, after "***physician***" by inserting "***, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist***"; and

On page 62, after line 27, by inserting the following new section and by renumbering subsequent sections accordingly:

"SECTION 46. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person shall, in this Commonwealth be, act as, or hold itself out as a purchasing cooperative unless it holds a certificate of filing from the commissioner. Each purchasing cooperative that seeks to offer services shall first be certified by the commissioner. To qualify as a purchasing cooperative, an applicant shall submit information acceptable to the commissioner in accordance with administrative regulations promulgated by the commissioner. Each purchasing cooperative shall be subject to Subtitle 12 of this chapter to the extent applicable and not in conflict with the expressed provisions of this subtitle."; and

On page 86, after line 11 but before line 12, by adding the following new section and by renumbering subsequent sections accordingly:

"SECTION 61. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the commissioner of the Department of Personnel, with the approval of the commissioner of the Department of Insurance, is authorized to contract with insurers on behalf of state employees pursuant to the provisions of KRS 18A.225 to 18A.229."; and

On page 86, line 12, by deleting "section is" and inserting "sections are" in lieu thereof; and

On page 86, between line 12 and line 13, by inserting:

"304.17-380 Filing of rates.

304.17-383 Procedure for approval of rate filing containing increase."; and

On page 87, line 14, after "year." by inserting "It is the intent of the General Assembly that any appropriation after the initial appropriation of five million dollars ($5,000,000) shall not be accessed until the commissioner has utilized the funds generated through the initial assessment against insurers and any tax revenues collected under Section 24 of this Act in each calendar year."; and

On page 87, after line 14 but before line 15, by inserting:

"Section 65. To supplement the reserves of the state employee benefit fund, there is appropriated to the state employee benefit fund out of the general fund in the State Treasury the sum of fifteen million dollars ($15,000,000) for fiscal year 1997-98."; and

On page 87, line 15, by deleting "63" and inserting "66" in lieu thereof.

Signed: Senators Tim Shaughnessy, Joey Pendleton, Julie Rose, Gex Williams, and Larry Saunders; and Representatives Jim Gooch, Jr., Brian Crall, Jody Richards, and Joe Barrows.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Gooch moved that **SB 1**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 49, Nays 50. (See October 15, 1997 roll call on **SB 1** - Appendix)

SB 1, as amended by the Free Conference Committee Report, was defeated.

Recess

Representative Stumbo moved to recess for a Committee on Committees meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HCR 21, by Representative Stumbo: A CONCURRENT RESOLUTION adjourning the 1997 Second Extraordinary Session of the General Assembly sine die.

Representative Stumbo moved the adoption of the following **HCR 21**:

HCR 21, A CONCURRENT RESOLUTION adjourning the 1997 Second Extraordinary Session of the General Assembly sine die.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. When the House of Representatives and Senate adjourn on Wednesday, October 15, 1997, they do adjourn sine die.

There being no objection **HCR 21** was adopted.

Representative Stumbo moved that the reading of the Journal of this day be dispensed with and the same approved. Agreed.

Representative Stumbo moved that the reading of the Journal of the House of Representatives for the Second Extraordinary Session of 1997, be dispensed with, and the same approved. Agreed.

Announcements

The following meeting was announced:

Minority Caucus, Room 316, upon recess.

Adjournment

Representative Stumbo moved that the House adjourn sine die until January 6, 1998, unless called into Extraordinary Session by the Governor.

On the roll call the vote was **Yeas 59**--Alexander, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Brandstetter, Bruce, Burch, De. Butler, Dw. Butler, Callahan, L. Clark, P. Clark, J. Clarke, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, Deskins, DeWeese, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Hoffman, Hogancamp, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marzian, Mason, Murgatroyd, Nesler, Palumbo, Polston, Pope, Rasche, Richards, Riner, Simpson, Stacy, Stein, Stine, Stumbo, Walton, Wayne, Weaver, Zimmerman. **Nays 27**--J. Adams, R. Adams, Anderson, Baugh, Bratcher, Cave, Crall, Ford, Haydon, Heleringer, Hoover, Lile, Maricle, McKee, Moberly, Napier, Reinhardt, Scott, Siler, Sims, Stewart, Thomas, Treesh, Vincent, Wilkey, Worthington, Yonts.

The motion to adjourn sine die was adopted.

APPENDIX A

1997 SECOND EXTRAORDINARY SESSION

MEMBERSHIP OF HOUSE OF REPRESENTATIVES

APPENDIX A - MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES
1997 SECOND EXTRAORDINARY SESSION

OFFICERS

SPEAKER	REPRESENTATIVE JODY RICHARDS
SPEAKER PRO TEM	REPRESENTATIVE LARRY CLARK
CHIEF CLERK	EVELYN MARSTON
ASSISTANT CLERK	JULIE WHEAT
ENROLLING CLERK	MARGARET WATTS
SERGEANT AT ARMS	EMMETT A. SLATTERY
CHIEF DOORKEEPER	WILLIAM "BUNNY" DAVIS
CLOAKROOM KEEPER	AUBREY MORRIS
CLOAKROOM KEEPER	FRANK SMITH
JANITOR	GEORGE FRITZ
PAGE	JOHN BROOKS
PAGE	CLARK CASE
PAGE	SHANNON DOLL
PAGE	MARTHA STANY

1st District
Charles R. Geveden
P.O. Box 518
Wickliffe, KY 42087

2nd District
Fred Nesler
P. O. Box 323
Mayfield, KY 42066

3rd District
Frank Rasche
2929 Jefferson St.
Paducah, KY 42001

4th District
Kathy Hogancamp
300 Acorn
Paducah, KY 42003

5th District
Freed Curd
1607 Sycamore
Murray, KY 42071

6th District
J. R. Gray
3188 Mayfield Hwy.
Benton, KY 42025

7th District
John A. Arnold, Jr.
1301 North Lee
Sturgis, KY 42459

8th District
John W. Adams
6255 Huffman Mill Rd.
Hopkinsville, KY 42240

9th District
James Edmond Bruce
6750 Ft. Campbell Blvd.
Hopkinsville, KY 42266

10th District
Eddie Ballard
P.O. Box 36
Madisonville, KY 42431

11th District
Gross Clay Lindsay
P.O. Box 19
Henderson, KY 42420

12th District
Jim Gooch, Jr.
P.O. Box 280
Providence, KY 42450

13th District
Brian Crall
3336 Bryant Ct.
Owensboro, KY 42303

14th District
Mark A. Treesh
5735 Grady Court
Philpot, KY 42366

15th District
Brent Yonts
232 Norman Circle
Greenville, KY 42345

16th District
Sheldon E. Baugh
252 West Valley
Russellville, KY 42276

17th District
Willard "Woody" Allen
3750 Gilstrap Road
Morgantown, KY 42261

18th District
Dwight D. Butler
P. O. Box 194
Harned, KY 40144

19th District
Dottie J. Sims
459 Violet Ave.
Horse Cave, KY 42749

20th District
Jody Richards
817 Culpeper St.
Bowling Green, KY 42103

21st District
Roger Thomas
345 Elkins Road
Smiths Grove, KY 42171

22nd District
Rob Wilkey
1418 Reeder School Rd.
Franklin, KY 42134

23rd District
Stephen R. Nunn
121 E. Main
Glasgow, KY 42141

24th District
William U. Scott
260 Frogg Lane
Raywick, KY 40060

25th District
Jimmy Lee
901 Dogwood Drive
Elizabethtown, KY 42701

26th District
John Michael Weaver
131 Mayer Lane
Elizabethtown, KY 42701

27th District
Mark S. Brown
170 Washington St.
Brandenburg, KY 40108

28th District
Bill Lile
11304 Frenchrone Drive
Louisville, KY 40272

29th District
Kevin D. Bratcher
5205 Constance Drive
Louisville, KY 40272

30th District
Tom Burch
4012 Lambert Ave.
Louisville, KY 40218

31st District
Steven Riggs
8108 Thornwood Rd.
Louisville, KY 40220

32nd District
Susan D. Johns
3120 Runnymeade Rd.
Louisville, KY 40222

33rd District
Bob Heleringer
14209 Glendower Dr.
Louisville, KY 40245

34th District
Mary Lou Marzian
2007 Tyler Lane
Louisville, KY 40205

35th District
Jim Wayne
1280 Royal Avenue
Louisville, KY 40204

36th District
Lonnie Napier
302 Danville Street
Lancaster, KY 40444

37th District
Perry B. Clark
5716 New Cut Road
Louisville, KY 40214

38th District
Denver Butler
6712 Morocco Dr.
Louisville, KY 40214

39th District
Robert R. Damron
231 Fairway West
Nicholasville, KY 40356

40th District
Dennis L. Horlander
Ste. 6, 1806 Farnsley Rd.
Louisville, KY 40216

41st District
Tom Riner
1143 E. Broadway
Louisville, KY 40204

42nd District
Eleanor Jordan
2704 Grand Ave. Unit #2
Louisville, KY 40211

43rd District
E. Porter Hatcher, Jr.
901 S. Western Parkway
Louisville, KY 40211

44th District
Joni L. Jenkins
2010 O'Brien Court
Shively, KY 40216

45th District
Stan Cave
P.O. Box 2150
Lexington, KY 40515

46th District
Larry Clark
5913 Whispering Hills Blvd.
Louisville, KY 40219

47th District
Ron Crimm
P. O. Box 43244
Louisville, KY 40253

48th District
Bob M. DeWeese
6206 Glen Hill Rd.
Louisville, KY 40222

49th District
Allen Maricle
P.O. Box 295
Shepherdsville, KY 40165

50th District
Jodie Haydon
106 Hillcrest
Bardstown, KY 40004

51st District
Ricky L. Cox
603 Maple Street
Campbellsville, KY 42718

52nd District
Vernon Miniard, Jr.
222 Michigan Ave.
Monticello, KY 42633

53rd District
Billy D. Polston
P. O. Box 248
Tompkinsville, KY 442167

54th District
Joe Clarke
120 N. Third St. Box 297
Danville, KY 40422

55th District
Jack L. Coleman, Jr.
P.O. Box 600
Burgin, KY 40310

56th District
Joe Barrows
152 Stout Avenue
Versailles, KY 40383

57th District
H. "Gippy" Graham
Room 432G, Capitol Annex
Frankfort, KY 40601

58th District
Marshall Long
P.O. Box 505
Shelbyville, KY 40065

59th District
Jim Zimmerman
3404 Sycamore Rd.
LaGrange, KY 40031

60th District
Paul H. Marcotte
10674 Palestine Dr.
Union, KY 41091

61st District
Royce W. Adams
580 Bannister Rd.
Dry Ridge, KY 41035

62nd District
Charlie Hoffman
406 Bourbon St.
Georgetown, KY 40324

63rd District
Richard L. Murgatroyd
2927 Prospect Pt. Dr.
Villa Hills, KY 41017

64th District
Thomas Robert Kerr
5415 Old Taylor Mill
Taylor Mill, KY 41015

65th District
Arnold R. Simpson
Shutt Mansion, 28 W. Fifth St.
Covington, KY 41011

66th District
Charlie Walton
1663 Brierwood Ct.
Florence, KY 41042

67th District
Jim Callahan
10 Colonel Pointe Dr.
Wilder, KY 41076

68th District
Katie Kratz Stine
15 Cliffview
Ft. Thomas, KY 41075

69th District
Jon David Reinhardt
637 W. Poplar Thicket
Alexandria, KY 41001

70th District
Pete Worthington
1910 Old Main St., Box 214
Washington, KY 41096

71st District
John Will Stacy
P. O. Box 135
West Liberty, KY 41472

72nd District
Jim Lovell
625 High
Paris, KY 40361

73rd District
Drew Graham
10984 Iron Works Rd.
Winchester, KY 40391

74th District
Adrian K. Arnold
3589 Aarons Run Road
Mt. Sterling, KY 40353

75th District
Kathy W. Stein
364 Transylvania Park
Lexington, KY 40508

76th District
Ruth Ann Palumbo
10 Deepwood Dr.
Lexington, KY 40505

77th District
Jesse Crenshaw
121 Constitution St.
Lexington, KY 40507

78th District
Thomas M. McKee
Route 1, Box 56
Cynthiana, KY 41031

79th District
Lawrence W. Brandstetter
2363 Chauvin Drive
Lexington, KY 40502

80th District
Danny Ford
P. O. Box 1245
Mt. Vernon, KY 40456

81st District
Harry Moberly, Jr.
P. O. Box 721
Richmond, KY 40476

82nd District
Charles L. Siler
3570 Tackett Creek Rd.
Williamsburg, KY 40769

83rd District
Jeffrey H. Hoover
288 Lakeview Dr.
Jamestown, KY 42629

84th District
Scott Alexander
Rt. 3, Box 607
Hazard, KY 41701

85th District
Tommy Turner
65 Herrin Ct.
Somerset, KY 42501

86th District
Jim Stewart
HC 76 Box 556
Flat Lick, KY 40935

87th District
Michael Dean Bowling
P.O. Box 859
Middlesboro, KY 40965

88th District
Thomas R. Pope
P. O. Box 391
Harlan, KY 40831

89th District
Marie L. Rader
P. O. Box 323
McKee, KY 40447

90th District
Barbara White Colter
200 Langdon Avenue
Manchester, KY 40962

91st District
Paul Mason
380 Hazard Road
Whitesburg, KY 41858

92nd District
Donnie Newsome
HC 80 Box 1070
Dema, KY 41859

93rd District
Chris Ratliff
P. O. Box 1306. South Mayo Trail
Pikeville, KY 41502

94th District
Herbie Deskins, Jr.
Box 1199
Pikeville, KY 41501

95th District
Gregory D. Stumbo
P. O. Box 511, 614 N. Lake
Prestonsburg, KY 41653

96th District
Walter Gee
110 E. Main
Grayson, KY 41113

97th District
Hubert Collins
72 Collins Lane
Whittensville, KY 41274

98th District
Hoby Anderson
P.O. Box 902
Flatwoods, KY 41139

99th District
Rocky Adkins
P.O. Box 688
Sandy Hook, KY 41171

100th District
John F. Vincent
P.O. Box 2528
Ashland, KY 41101

APPENDIX B

1997 SECOND EXTRAORDINARY SESSION

HISTORY OF HOUSE ACTION ON BILLS AND RESOLUTIONS

APPENDIX B - HISTORY OF HOUSE ACTION ON BILLS AND RESOLUTIONS
1997 SECOND EXTRAORDINARY SESSION

History of House Action on House Bills
Numbers refer to page of House Journal. The text of a bill is given on first reading.
Sponsors are listed when bill is introduced.
*Voting modifications are listed after the roll call vote in Appendix C.

Bill No.	Intro duced	Re- ferred	Re- ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Sent to Gov.)	Other Action
				1st	2nd	3rd						
HB 1	2	4	9	9	13	15		15	55		159 (159)	4, 13
HB 2	2	4										4
HB 3	2	4										4
HB 4	2	4										4
HB 5	2	4										4

History of House Action on House Resolutions

Numbers refer to page of House Journal. The text of a resolution is given on first reading or adoption.

Bill No.	Intro duced	Re- ferred	Re- ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HR 1	2							3				
HR 2	2							3				
HR 3	2							4				3
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HR 12	159											
HR 13	159							167				166
HR 14	159							166				165
HR 15	159							245				244
HR 16	241							245				

History of House Action on House Resolutions Continued

Bill No.	Intro duced	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HR 17	247							247				
HR 18	248							249				248
HR 19	250							250				
HR 20	250							251				250
HCR 21	255							255				

History of House Action on Senate Bills

Numbers refer to page of House Journal. The text of a bill is given on first reading.

*Voting modifications are listed after the roll call vote in Appendix C.

Bill No.	Senate Message	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Concur Activities	Enrolled	Other Action
				1st	2nd	3rd					
SB 1	19	19	19	19	89	159	55, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 112, 121, 122, 124, 140, 141, 157, 166, 169, 176, 183, 184, 212, 228, 235, 238, 252	165, 244, 255	245, 246, 251, 255		19, 53, 55, 90, 165, 168, 169, 241, 245

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1997 SECOND EXTRAORDINARY SESSION

ROLL CALL VOTES

APPENDIX C - ROLL CALL VOTES
1997 FIRST EXTRAORDINARY SESSION

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ADAMS, J.
ADAMS, R.
ADKINS
ALEXANDER
ALLEN
ANDERSON
ARNOLD, A.
ARNOLD, J.
BALLARD
BARROWS
BRANDSTETTER
BRATCHER
BROWN
BRUCE
BURCH
BUTLER, DE.
BUTLER, DW.
CALLAHAN
CAVE
CLARK, L.
CLARK, P.
CLARKE
COLEMAN
COLLINS
CRENSHAW
CRIMM
CURD
DAMRON
DEWEESE
FORD
GEE
GEVEDEN
GOOCH
GRAHAM, D.
GRAHAM, G.
GRAY
HAYDON
HELERINGER
HOFFMAN
HOGANCAMP
HORLANDER
JENKINS
JOHNS
JORDAN
LEE
LILE
LINDSAY
LONG
LOVELL
MARCOTTE
MARICLE
MARZIAN
MASON
MCKEE
MINIARD
MOBERLY
MURGATROYD
NAPIER
NESLER
NEWSOME
NUNN
PALUMBO
POPE
RADER
RATLIFF
REINHARDT
RICHARDS
RIGGS
RINER
SCOTT
SILER
SIMPSON
SIMS
STACY
STEIN
STEWART
STINE
STUMBO
THOMAS
TREESH
TURNER
VINCENT
WAYNE
YONTS
ZIMMERMAN

NAYS: 1

POLSTON

SB 1 (Oct 10) YEAS: 49

ADAMS, J.
ADAMS, R.
ARNOLD, A.
ARNOLD, J.
BALLARD
BARROWS
BAUGH
BROWN
BRUCE
BUTLER, DE.
CALLAHAN
CLARK, L.
COLLINS
COLTER
CRIMM
CURD
DEWEESE
FORD
GEVEDEN
GOOCH
GRAY
HATCHER
HAYDON
HOGANCAMP
JORDAN
KERR
LEE
LONG
MARCOTTE
MARZIAN
MCKEE
MOBERLY
MURGATROYD
POPE
RASCHE
REINHARDT
RICHARDS
RIGGS
SCOTT
SILER
SIMPSON
SIMS
STINE
THOMAS
TREESH
WALTON
WEAVER
WILKEY
YONTS

NAYS: 47

ADKINS
ALEXANDER
ALLEN
ANDERSON
BOWLING
BRANDSTETTER
BRATCHER
BUTLER, DW.
CAVE
CLARK, P.
CLARKE
COLEMAN
COX
CRALL
CRENSHAW
DAMRON
DESKINS
GEE
GRAHAM, D.
GRAHAM, G.
HELERINGER
HOFFMAN
HOOVER
HORLANDER
JENKINS
JOHNS
LILE
LOVELL
MARICLE
MINIARD
NAPIER
NESLER
NEWSOME
NUNN
PALUMBO
POLSTON
RADER
RATLIFF
RINER
STACY
STEIN
STEWART
STUMBO
TURNER
VINCENT
WAYNE
ZIMMERMAN

SB 1 (Oct 14) YEAS: 70

ADAMS, J.
ADAMS, R.
ADKINS
ALEXANDER
ALLEN
ANDERSON
ARNOLD, A.
BALLARD
BARROWS
BOWLING
BRATCHER
BRUCE
BUTLER, DE.
CALLAHAN
CLARK, L.
CLARK, P.
CLARKE
COLEMAN
COLTER
CRENSHAW
DAMRON
DESKINS
DEWEESE
GEVEDEN
GOOCH
GRAHAM, D.
GRAHAM, G.
GRAY
HATCHER
HAYDON
HELERINGER
HOFFMAN
JENKINS
JOHNS
JORDAN
LEE
LILE
LONG
LOVELL
MARICLE
MARZIAN
MASON
MCKEE
MOBERLY
MURGATROYD
NAPIER
NEWSOME
NUNN
POLSTON
POPE
RASCHE
RATLIFF
REINHARDT
RICHARDS
RINER
SCOTT
SILER
SIMPSON
SIMS
STACY
STEIN
STEWART
STUMBO
THOMAS
VINCENT
WEAVER
WILKEY
WORTHINGTON
YONTS
ZIMMERMAN

NAYS: 30

ARNOLD, J.
BAUGH
BRANDSTETTER
BROWN
BURCH
BUTLER, DW.
CAVE
COLLINS
COX
CRALL
CRIMM
CURD
FORD
GEE
HOGANCAMP
HOOVER
HORLANDER
KERR
LINDSAY
MARCOTTE
MINIARD
NESLER
PALUMBO
RADER
RIGGS
STINE
TREESH
TURNER
WALTON
WAYNE

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SB 1 Final Passage (Oct 15) YEAS: 49

ADAMS, J.
ADAMS, R.
ARNOLD, A.
ARNOLD, J.
BALLARD
BARROWS
BAUGH
BROWN
BRUCE
BUTLER, DE.
CALLAHAN
CLARK, L.
COLLINS
COLTER
CRALL
CRIMM
CURD
FORD
GEVEDEN
GOOCH
GRAHAM, G.
GRAY
HATCHER
HAYDON
HORLANDER
JORDAN
KERR
LEE
LONG
MARCOTTE
MCKEE
MOBERLY
MURGATROYD
NUNN
POPE
RASCHE
RICHARDS
RIGGS
SCOTT
SILER
SIMS
STINE
THOMAS
TREESH
WALTON
WEAVER
WILKEY
WORTHINGTON
YONTS

NAYS: 50

ADKINS
ALEXANDER
ALLEN
ANDERSON
BOWLING
BRANDSTETTER
BRATCHER
BURCH
BUTLER, DW.
CAVE
CLARK, P.
CLARKE
COX
CRENSHAW
DAMRON
DESKINS
DEWEESE
GEE
GRAHAM, D.
HELERINGER
HOFFMAN
HOGANCAMP
HOOVER
JENKINS
JOHNS
LILE
LINDSAY
LOVELL
MARICLE
MARZIAN
MASON
MINIARD
NAPIER
NESLER
NEWSOME
PALUMBO
POLSTON
RADER
RATLIFF
REINHARDT
RINER
SIMPSON
STACY
STEIN
STEWART
STUMBO
TURNER
VINCENT
WAYNE
ZIMMERMAN

VOTING MODIFICATION On Legislative Citation No. 19: PAGE 92 - JORDAN, "Yea". Legislative Citation No. 19. Legislative Citation No. 19 was adopted by Voice Vote on Thursday, October 09, 1997, page 91 of the House Journal.

APPENDIX D

1997 SECOND EXTRAORDINARY SESSION

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BRATCHER, REP. KEVIN
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HORLANDER, REP. DENNIS
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